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REPORTS

NOTES OF THE WEEK

Probation and Research

Although annual reports of probation committees and probation officers contain useful statistical information about the results of probation it remains true that a more detailed examination would furnish material for the study of the system as part of a general inquiry into the question of penal reform. Speaking in London at the annual conference of the National Association of Probation Officers on May 4, the Home Secretary referred to the forthcoming publication of a report on the work undertaken by the Criminal Science Department in the University of Cambridge and the help he would derive from it in his programme of penal reform to which this inquiry into the results of probation would form a prelude. In this work of research probation officers could give, and had given, valuable assistance.

Mr. Butler's speech in the House of Commons had already shown his keen interest in penal reform and was welcomed on all sides as evidence of his determination to institute systematic scientific research into a problem which is rightly engaging increasing attention of thoughtful men and women.

1907 to 1957

The presence of Lord Samuel on this occasion was as appropriate as it was welcome. It was he who, as Under Secretary of State at the Home Office, introduced in the House of Commons the Probation of Offenders Bill in 1907. It was unopposed and indeed excited not very much notice. The short Act had worked well in practice, perhaps because it was drawn in wide terms and imposed no detailed restrictions. Lord Samuel said his view had always been that the administrator of tomorrow would know better than the legislator of today what powers would be needed in the conditions then prevailing. The legislator founding an institution should not regard himself as designing and making a machine but rather as planting a seed with a life of its own.

Lord Denning spoke of the duty of Judges and magistrates to administer law, justice and mercy and of the need for the judgments of the courts to express public disapproval of crime. He referred to the value of the work of probation officers in furnishing information about offenders and their circumstances and drew on his own experience as a Judge of the High Court. He welcomed the assistance of probation officers in matrimonial cases in connexion with the magistrates' courts, especially in attempting reconciliation and, not only in those courts, in dealing with the most important feature of many divorce and separation cases, the custody of children. In adoption proceedings in the county court and the magistrates' court, their services as guardian *ad litem* were of value.

This meeting, part of a conference which marked the jubilee of probation, was held by permission of the Lord Mayor and corporation in the ancient Guildhall, and was followed by a buffet luncheon at the Mansion House. Probation officers must have felt encouraged and honoured by this recognition of the work that they and their predecessors have been able to do with increasing success and by the presence of the distinguished speakers and other friends of probation who were present.

Dangerous Driving a Question of Fact

In *R.* v. *Parker* (1957) *The Times*, May 7, the Court of Criminal Appeal were dealing with an appeal against conviction brought by a man who was convicted of causing death by dangerous driving.

The Lord Chief Justice, delivering the judgment of the Court, said that the appeal was on the ground of misdirection, it was complained that the Judge said that momentary inattention could amount to dangerous driving.

Lord Goddard stated that the facts were that at a busy time of day the appellant was driving along a road when he came to a dangerous crossing at which the traffic lights were showing red in his direction. He crossed against the red light and collided with a motor bus. Part of his car was flung round and it struck and killed a man. The appellant appears at the time to have said that the lights were green and

then, when he was told that they were not, he said that he must have been mistaken. Lord Goddard said that the question for the jury was whether the death was caused by dangerous driving, and they found that it was. Counsel for the appellant argued that the Court should not convict him of dangerous driving when he was only guilty of momentary carelessness. The Lord Chief Justice said that the Court was certainly not going to attempt to lay down what dangerous driving was. It *was a matter of fact for the jury* (the italics are ours). The appeal was dismissed.

This is a decision which applies equally to magistrates' courts hearing cases of dangerous driving. There is no legal definition of the phrase and each court must decide as a question of fact whether the evidence which they accept shows that what the defendant did amounted to dangerous driving. It is sometimes sought to distinguish between careless driving and dangerous driving by saying that the former is a sin of omission and the latter one of commission, but if this is a guide at all it is only a very rough and ready one and each case must be dealt with on its own facts. Inevitably this means, we fear, that different courts will take different views of this somewhat controversial question, and that what is dangerous driving in one place will be only careless driving in another.

Breaking up a Gang

Juvenile and adolescent offenders often work in gangs, and when they are brought to court one object of the court may be to break up the association between them so that they may make a fresh start among different companions. This purpose may sometimes be achieved by sending all or some of the offenders to different borstal institutions, approved schools or other institutions, but if institutional treatment is not considered necessary the expedient of probation with special requirements may be adopted. A general requirement not to associate with persons of bad character used at one time to be inserted by some courts, but that is rather vague, and would often be difficult to enforce. What we have in mind is a requirement that the probationer does not associate with a particular named person or persons. This is definite and easily appreciated by the probationer, and any flagrant or persistent disregard of it would in all likelihood be discovered. Of course it would be hardly reasonable to require a boy not to associate with a boy who lived next door in a tenement house, or with a boy in the same class at the same school, but apart from that type of case it seems a requirement that could prove effective in breaking up a gang.

An example is reported in *The Yorkshire Post*. Seven young men who were said to have formed themselves into a gang for the purpose of warehouse-breaking and shopbreaking were at Middlesbrough quarter sessions put on probation after admitting a number of charges. The learned recorder explained that the requirement he was inserting in the orders that they should not associate with one another did not mean that they were not to say "hullo" to one another, but they were not to go to one another's houses or go about or meet together. This, it is to be hoped, will put an end to unprofitable companionships without recourse to institutional treatment.

Borrowed Bicycles in Northern Ireland

We are grateful to the Clerk of Petty Sessions of the Petty Sessions Courts of Belfast for drawing our attention to s. 48 of the Road Traffic (Northern Ireland) Act, 1955, which came into force on October 1, 1956. It makes it an offence to take and drive away (or to attempt to do so) any vehicle or *pedal cycle* without having either the owner's consent or some other lawful authority. This offence is punishable on conviction on indictment by imprisonment not exceeding 12 months and/or a fine not exceeding £100 or on summary conviction by imprisonment not exceeding three months and/or a fine not exceeding £50.

It is a defence for the accused person to show that he acted in the reasonable belief that he had lawful authority or that the owner, if asked, would have given his consent.

Either on trial on indictment or on summary trial if a defendant is charged with stealing a vehicle or a pedal cycle he may be acquitted on that charge and found guilty of an offence under s. 48.

Our readers will notice that this section follows broadly the scheme of s. 28 of the Road Traffic Act, 1930, with these important differences: it adds pedal cycles, it includes an attempt to take and drive away so that this becomes a summary offence, and it gives to summary courts the power which s. 28 gives only to a jury of convicting of a taking and driving away offence when the charge is one of stealing. This last provision is contrary to the normal rule in summary proceedings that a defendant may not be convicted of an offence other than that with which he is charged, but there seems to us ample reason for making the exception in this case.

It does seem a great pity that our Road Traffic Act, 1956, did not bring pedal cycles within the scope of s. 28 of the Act of 1930; and the inclusion of the attempt and of the summary power to convict of a "taking" offence on a charge of stealing are both worthy of consideration on a suitable future occasion.

A Regular Customer

The *East Anglian Daily Times* of April 26 records the words of a chairman of a magistrates' court to a motoring offender as follows: "I am tired of seeing you here and I suspect you are tired of seeing me." The defendant, on that occasion, was summoned for using a lorry without rear lights and with the identification mark not illuminated. It was reported, after his conviction, that he had 61 previous convictions for motoring offences and that most of these related to the use of unroadworthy vehicles, no insurance and other such offences.

A defendant with a record like this can properly be said to be treating the law with contempt, and it seems to be a pity there is not some way of inducing him to adopt a different attitude. Unlike business concerns, the courts do not wish to encourage regular customers, and they are not without means of making such frequent visits so unprofitable that the customer decides to mend his ways. Only two of this offender's previous convictions were for lighting offences and on this occasion the chairman told him, in fining him a total of £3, "We have for years been giving you advice and trying to persuade you not to buy these worn-out vehicles. We are being lenient once again, but it will be the last time."

One can only conclude that the fines so far imposed have been such that the defendant has found that, in spite of them, it still paid him to go on breaking the law. He may yet learn that such a course of conduct does not pay for ever.

Parking at Night Facing the Wrong Way

Subject to exceptions in particular cases, the general rule laid down by reg. 90 (1) of the Motor Vehicles (Construction and Use) Regulations, 1955, is

that a vehicle must not be allowed to stand on a road during the hours of darkness otherwise than with the left or near side of the vehicle as close as may be to the edge of the carriageway. This rule does not apply in one-way streets. The regulations which allow the use of parking lights and, in some cases, of no lights on parked vehicles, repeat this requirement that, except in one-way streets, a vehicle shall be left with its left or near side close to the kerb.

It is a rule which, according to everyday (or should it be everynight ?) observation, is frequently broken and there are too many other things for the overworked police to do for them to be free to concentrate on preventing this particular breach of the law. The *Liverpool Daily Post* of April 17 does report one prosecution for such an offence which seems, from the remainder of the report, to have come about because the motorist who left his motorcycle and sidecar with its offside to the kerb had the misfortune to have it damaged by a passing vehicle. The driver of this vehicle was fined for careless driving and for failing to report the accident; the owner of the damaged combination was fined £1 for his offence of parking with the offside of his vehicle to the kerb. In certain positions, and when visibility is bad, this practice can cause difficulties for other drivers.

Disqualified Till he Passes a Test—No Time Limit

Section 12 (2) of the Road Traffic Act, 1930, as amended by the Road Traffic Act, 1956, limits to one month the period for which a person may be disqualified on a first conviction under s. 12 (1), but there is no time limit in s. 6 (3) of the Road Traffic Act, 1934. This allows a court before which a person is convicted of an offence under s. 11 or one under s. 12 of the 1930 Act to disqualify him for holding or obtaining a licence until he has thereafter passed a driving test. An order so disqualifying an offender can be made without, or in addition to, any order of disqualification for a fixed period made under s. 6 of the 1930 Act. In the case of a first conviction under s. 12 (1) (*supra*) an order under s. 6 (3) of the 1934 Act may be a much greater "penalty" for the offender than an order for the limited period permitted by s. 12 (2).

The Western Morning News of April 18 contains a report of the conviction of a van driver who ignored a halt sign and did so at such an unfortunate moment that he nearly collided with a police car travelling at about 40 m.p.h. in the main road. He was fined £5 for driving without due care and attention and he was disqualified for driving until he has passed a test. We wonder what is the minimum time in which he can do this if everything goes favourably for him ? Although this order does not prevent his driving it does, in normal times, mean that he must be accompanied always by a qualified driver until he has passed his test and this, for a van driver, must be a severe handicap. But, as we have said before, these orders disqualifying until a test is passed can be very salutary, and if they were more freely made might make drivers think twice before taking a risk.

Garaging in the Street

From time to time there are reports in the press of the prosecution of motorists who have adopted the now popular habit of using the highway as a garage. In our view such prosecutions are all too few in number. *The Western Morning News* of May 2 contains a report of the hearing of the appeals of two men against convictions for causing unnecessary obstruction with their cars. The appeals were dismissed.

One of the men said, in support of his appeal, that he had to leave the estate where he lived almost at any time of day or night and that he needed his car for that reason. The other, who worked at a power station, said that on shift work he had to leave his house very early in the morning and that he took two other men with him when he went to work.

Both men had been warned by the police about parking their cars overnight. Apparently they went then, with a deputation, to see the chairman of the housing committee of the local council, and thereafter they decided to continue their practice of parking their cars on the highway. The learned chairman of quarter sessions said that a councillor is not an interpreter of the law and the council do not make the law. He added that it was argued that it was unreasonable to expect people to go two miles to a car park, but the highway was not the place to park, unless it had been so designated by the Minister. This particular area had not been designated. The court found that the obstructions of the highway were unreasonable, and so unnecessary, and dismissed the appeals with costs.

There is in s. 19 of the Road Traffic Act, 1956, provision for the designation of parking places by the Minister. The earlier part of the section deals with the Metropolitan Police District and the City of London, but subs. (7) allows the Minister, by order, to provide that the section shall apply to any such area in England or Wales, in addition to the Metropolitan Police Area and the City of London, as may be specified in the order. The section came into force on January 1, 1957. Moreover a local authority may provide parking places in accordance with the provisions of s. 68 of the Public Health Act, 1925, and an order under that section may authorize the use of a part of a street, not being a street within the London Traffic Area. Within that area s. 10 of the London Traffic Act, 1924, applies. The existence of these various powers to provide parking places seems to imply that the law does not contemplate that it is right for motorists to park their cars indiscriminately wherever it may be convenient to them.

Radar Speed Traps

Evidence that a driver has exceeded a speed limit is given normally by showing either that over a measured distance his speed, according to the times recorded by stop-watches, was in excess of the legal maximum, or that the speedometer on a police car, which followed him for a stated distance and kept at an even distance behind him, recorded speeds in excess of that maximum. The motorist who uses a particular road with any frequency gets to know where the police speed traps operate and, if he keeps his eye on the mirror, he can usually see if he is being followed by a police car. In America, New Zealand and in Ulster, so we read in the *News Chronicle* of April 6, a "radar style speed trap" is used, and this has been tested experimentally in this country recently. According to the report it was stated at Scotland Yard that the test on the Thames Embankment was "nothing more than a demonstration." But it may well be that a new terror threatens the speeding motorist, and it will be interesting to learn how the evidence in such cases will be presented.

The same report quotes the A.A. as saying that they would "object to its use as evidence. Our chief engineer thinks the machine is fallible and it is so technical that a layman could not contest its accuracy." We can only wait and see.

Control of Dogs on the Roads

At p. 258, *ante*, we published an article on the subject of s. 15 of the Road Traffic Act, 1956, coming into force. It will be recalled that by this section, any person who causes or permits a dog to be on any designated road without the dog being held on a lead is liable on summary conviction to a fine not exceeding £5.

A report in the *Evening Argus*, Brighton, of April 4, records that the chief constable of Brighton has recommended that 50 roads in Brighton which are main bus routes shall be "designated roads." The procedure is for them to be specified as such in an order made by the local authority, which is made after consultation with the chief officer of police and is of no effect unless confirmed by the Minister of Transport and Civil Aviation. Such an order does not apply to dogs proved to be kept for driving or tending sheep or cattle in the course of a trade or business or to have been, at the material time, in use under proper control for sporting purposes.

It may be that the courts will have to interpret the meaning of "causes or permits" in s. 15 (1). Is a person liable whose dog gets out of a garden and finds its way to a designated road unless he can show that in order to escape the dog performed some unusual feat which the owner could not reasonably have anticipated, or is the liability limited to a person who takes a dog on to such a road without having it on a lead? Between these two extremes there can be a number of degrees of "responsibility" which may or may not constitute causing or permitting.

Training of Mental Defectives

The training of mentally defective children is clearly one way in which the future cost of the mental deficiency service can be reduced while at the same time helping them, as they grow older, to take a useful part in the life of the community. In spite of financial stringency there has been a continued expansion in the provision of occupation centres in recent years. In 1948 there were only 100 centres in England and Wales; by the end of 1954 there were 255; by the end of 1955 there were 272 and now the number is 305. In opening recently the second new centre provided by the Nottingham county council, the Minister of Health (Mr. Dennis Vosper) said that in 1951 just over 4,000 boys and girls under 16 were receiving training; today there are well over twice that number. But though the number of children waiting for places in centres continues to fall, it is still over 3,000. He said many of the children who had profited from training in junior centres were nearing the age of 16 when they needed to be prepared for a job in the community or some form of sheltered employment. As he explained, so far it has only been possible to give priority to the needs of children but it is clear that it will not be enough to provide centres for them alone. There are already over 5,000 boys and girls over 16 who are reported by local health authorities to be suitable for, but are not receiving, senior training. A few authorities have established adult centres and are experimenting with simple pre-industrial training, sheltered employment, deversionary occupation and social activities. But, successful and enterprising as many of these schemes are, the Ministry are aware that the fringe of the problem only has been touched.

The needs of the adult are quite different from those of the children. The Minister said he had no doubt that the Royal Commission on the Mental Laws, whose report he expected soon, will offer useful advice on what local health authorities might do to assist in the adult sphere.

Most of the centres so far provided have been in urban areas but there was a reference in the last annual report of the Ministry of Health to the developments in occupation and training services in Cornwall which it was suggested were typical of what has been done and can be achieved in mainly rural areas. Staffing is often a difficulty and in this, help is being given through the training courses provided by the National Association of Mental Health. The Ministry hope that the deficit of trained staff that follow from expansion can be made good within the next few years.

Contributions by Counties to County Districts

Some contributions must be made by county councils in aid of certain county district expenditure, while in other cases contributions may be made if the county council so decide.

In the former category are contributions under the Rural Water Supplies and Sewerage Act, 1944, towards the water and sewerage expenses of district councils who receive government grants in aid of this expenditure, under the Housing Acts in respect of agricultural cottages, under the Coast Protection Act, 1949, towards the expenses of county districts which receive grants, and under the Local Government Act, 1933, to meet half the salaries of county district medical officers of health and sanitary inspectors. In default of agreement between the parties as to the contributions to be made in respect of water supplies, sewerage and coast protection the amount is decided by the Minister of Housing and Local Government, subject to the proviso that the county council cannot be compelled to contribute to water or sewerage costs more than the amount of the government grant: its liability is similarly limited for any one coast protection scheme with an overall limit for all schemes together of the product of a penny rate.

Cases where contributions are optional include payments towards the cost of private street works in rural areas and towards the cost of water supplies, sewerage or sewage disposal works under s. 307 (1) of the Public Health Act, 1936. In both these examples the fact that if contributions were made a double burden would be cast upon certain parts of the county has influenced many counties to make no contributions at all.

The position under the Public Health Act was debated at the last conference of the Urban District Councils Association when a resolution moved by Eston U.D.C. was passed, the substance of which was that there should be a right of appeal to the Minister of Housing and Local Government against the county council's decision and accordingly a request was made for the introduction of the necessary legislation "with suitable safeguards to protect the rights and interests of other county district councils within the county concerned."

This resolution was passed against the advice of the Executive Council of the Association, who argued that it was not a good thing to take away powers from local authorities, for which the granting of Eston's request might provide a precedent, and that in any case the time was inopportune having regard to the forthcoming review of local government. The movers of the resolution argued, however, that comprehensive sewerage schemes were usually undertaken only in rapidly developing areas and the consequent increase in rateable value increased the resources of the county council and thus benefited all districts within the county: furthermore

in appropriate cases the expenditure attracted equalization grant. It was said that, according to the latest figures, about a third of the counties were making contributions under s. 307.

On the merits of the case there is much to be said for the arguments put up by Eston and other supporters of the resolution, but we share the dislike of the Executive for proposals which seek to diminish local government powers, and feel that friendly persuasion in the county council chambers should be tried to the limit before requesting more Whitehall control.

DE MINIMIS NON CURAT LEX

[CONTRIBUTED]

Birkett v. *McGlassons Ltd. and Another* [1957] 1 All E.R. 369; p. 70 *ante*, was a decision of the Divisional Court on the interpretation to be placed on s. 30 (1) of the Salmon and Freshwater Fisheries Act, 1923, providing that "No person shall . . . have in his possession for sale any salmon . . . between August 31 and February 1 following" and it was held that this contemplates a sale which takes place or is intended to take place between the dates specified in the subsection and not a sale which takes place at any other time and therefore possession of salmon within the period specified in the subsection for the purposes of sale outside that period is not an offence under s. 30 (2) of the Act. The case was an appeal by the prosecutor against the dismissal of informations and in the case stated the justices were of opinion that the section was ambiguous and that the benefit of the doubt should be given to the subject and, accordingly, they dismissed the informations. They went on that should their interpretation of the section be incorrect, they were satisfied that the respondents only had the fish in their possession for sale as from the closing of their premises on January 31, until midnight of that day, and accordingly they might have dealt with the informations in accordance with the maxim "*de minimus non curat lex*"—the law takes no account of very trifling matters—and dismissed them. This part of the case was not considered by the Divisional Court as, apparently, it was not necessary to do so to enable the Court to uphold the decision of the justices. It is intended to pursue this part a little further here and to suggest, with respect, that if the justices had dealt with the matter in that manner, they would have been in error in law, despite any factual merits such decision might have. Such a dismissal would have meant that there would not have been a conviction although an offence would have been proved and it would seem, for the reasons given later, that on appeal, a direction that a conviction must be recorded would at least be obtained.

DEFENCE OR MITIGATION

The Divisional Court has, from time to time, reminded justices that they must be careful not to confuse matters of defence with matters of mitigation and if an offence is proved there must be a conviction, although justices can show their regard for the trivial nature of the offence in the action they take on conviction. Section 16 of the Summary Jurisdiction Act, 1879, provided that if upon the hearing of a charge for an offence punishable on summary conviction under that Act, or under any other Act, whether past or future, the court of summary jurisdiction thought that though the charge was proved the offence was in the particular case of so trifling a nature that it was inexpedient to inflict any punishment, the court, without proceeding to conviction, might dismiss the information. However, this was repealed by the Probation of Offenders Act, 1907, and Lord Goddard, C.J., dealt with the point in *Evans* v. *Jones* [1953] 2 All E.R. 701; 117 J.P. 432, a case of adulterated milk, where his lordship said he wanted to emphasize how careful magistrates should be not to confuse matters of defence with matters of mitigation. *Evans* v. *Jones* (*supra*) showed that the passage in *Banks* v. *Wooler* (1900) 64 J.P. 25, on which the magistrates had relied, showed in the days when s. 16 of the Summary Jurisdiction Act, 1879, was in force, magistrates, if they thought a case trivial, were empowered to dismiss it. His lordship went on "They are no longer required to dismiss a case which they consider trivial. They must convict, but they can grant an absolute discharge or a conditional discharge under the Criminal Justice Act, 1948, s. 7."

The matter was also dealt with in the earlier case of *Pickett* v. *Fesq* (1949) 113 J.P. 528, which emphasizes that justices must also be cautious in treating an offence as trivial, for the Divisional Court will upset a decision of an absolute or conditional discharge granted by justices on this ground if, in the view of the Divisional Court, the offence cannot be properly described as trivial. In this case, justices dismissed under the provisions of s. 1 of the Probation of Offenders Act, 1907 (equivalent to the present day absolute discharge) an information alleging an offence of having attempted to take out of the country 85 £1 notes the export of which was prohibited by s. 22 of the Exchange Control Act, 1947. Lord Goddard, C.J., referred to s. 16 of the Summary Jurisdiction Act, 1879, *supra*, and said the Court had always exercised the power of correcting a wrong decision and ordering justices to inflict a penalty if they thought the circumstances of the case were such that the justices ought not to have dealt with it under s. 16. He also referred to the Probation of Offenders Act, 1907, which repealed s. 16 and to the fact that it has been replaced by the Criminal Justice Act, 1948, s. 7, and said the main difference between that section and the Probation of Offenders Act, 1907, in effect is that under the latter provision the court could refrain from convicting. The illogical situation which used to arise had often been pointed out and Parliament had altered the law by providing that now there must be a conviction, but the defendant can be discharged without any penalty.

STATUTORY REFERENCE

There is still an instance where there is statutory reference to dismissal of a trifling offence and this is concerning assaults in the Offences Against the Person Act, 1861, s. 44, which states that if justices find the assault or battery to have been so trifling as not to merit any punishment, and shall accordingly dismiss the complaint, they shall forthwith make out a certificate stating the fact.

VOCATION?

After weeks of long vacation
I come to with quite a jerk
And am quite surprised to find that
I would really like to work.

J P C.

NEITHER REWARDS NOR PUNISHMENTS?

By F. G. HAILS (*Solicitor, Clerk to the Dartford Justices*)

The Times, of February 12, 1957, contains a news report of a case before a metropolitan magistrate concerning the arrest of a deserter. The magistrate is reported to have said to the constable who made the arrest "you shall have the reward," whereupon the clerk interposed "Under the new Army Act that reward has gone. As a matter of fact it was never paid previously. Magistrates recommended it, but the Army never gave it."

There is no mention of a reward in the Army Act, 1955, but for that matter there was no mention in the Army Act of 1881: on the other hand, as *The Times* report to which we have referred makes clear, a reward is payable to any person who apprehends a deserter under Pay Warrant, 1950, art. 492, so long as the deserter does not surrender voluntarily. The maximum amount is £1, but there is also an Army Council Instruction stipulating that the amount is not to exceed 10*s*. if the deserter is in uniform, or 15*s*. if in plain clothes. In each case the circumstances of the case are to be considered, and a magistrate cannot grant the reward, but merely recommend that it be paid. It is our experience that rewards are sometimes paid. The position is similar for absentees without leave, and also for details of the Air Force, although we cannot quote any Pay Warrant or other source of our information: So far as the Royal Navy is concerned, we have referred to the 1938 volume of the King's (now the Queen's) Regulations and Admiralty Instructions which came into our possession during the last war, and we find that art. 593 reads:

"Exceptional zeal or intelligence in affecting the arrest of a deserter or absentee, or in causing him to surrender, may be recognized by the payment of a reward, of which the amount is to be determined by the energy and intelligence which has been shown and is not to exceed £1 for the arrest of a man who has overstayed his leave, or £2 for the arrest within two years of a deserter or of a man who has:

(*a*) broken out of his ship, or

(*b*) when on service away from his ship, quitted his place of duty and continued to be absent after the time at which he should have returned to the ship; or

(*c*) when his ship was under sailing orders, continued to be absent without leave after the ship had sailed, provided that the fact of the ship being under sailing orders was generally known.

A reward should not be offered beforehand, except in rare cases where the recovery of a deserter or absentee is of especial importance for other reasons."

The article goes on to provide that no reward is payable for the apprehension *of* any officer, or *to* any Naval rating or Naval policeman, whilst there are provisions allowing a constable "or other persons bringing a deserter or absentee on board" to appeal against the Captain's award.

No doubt there are similar provisions relating to deserters and absentees from the Royal Air Force, although the system of rewards went back into those days when, there being no proper police force in the country, it was necessary to bribe citizens to help in the recovery of seamen who had been forced into the Navy by means of what is usually called the press gang, more accurately, the Press, whilst the Army was composed, in the words of the Duke of Wellington, "of the scum of the earth—the mere scum of the earth." Times have changed, but the reward may have its use today, although we believe that magistrates now are reluctant to recommend it.

So much for rewards. We should like to consider the procedure for dealing with absentees or deserters from the three armed forces of the Crown, bearing in mind that up to January 1, 1957, soldiers and airmen were subject to the provisions of the Army Act, 1881, s. 154, but since that date they are dealt with under either the Army Act, or the Air Force Act, of 1955. These two statutes are similar in construction, and are both annual Acts, that is to say they expire on December 31 in each year unless renewed by the Crown by Order in Council. We believe that this has something to do with Oliver Cromwell, but that need not detain us here. The provisions relating to deserters and absentees are to be found in ss. 186 to 190 of each Act, and may be summarized as follows:

Section 186 (1) Power of arrest is given to any constable or any person whom he has reasonable cause to suspect of being an officer, warrant officer, non-commissioned officer, soldier, or airman who has deserted or is absent without leave.

Section 186 (2) Where no constable is available, like power is given to any officer, warrant officer, non-commissioned officer, soldier, airman, or "any other person."

Section 186 (3) Any person who may issue a warrant for arrest for a person charged with crime may issue a warrant for the arrest of a deserter or absentee.

Section 186 (4) Any person in custody under this section is to be brought before "a court of summary jurisdiction" as soon as practicable.

Section 186 (5) The above applies in the United Kingdom and any colony.

Section 187 (1) Where a deserter or absentee is brought before a court of summary jurisdiction he is to be dealt with as follows:

Section 187 (2) If he admits the truth of the allegation as to desertion or absence without leave and the court is satisfied that the admission is true he is either to be delivered to military or air force custody forthwith, or to be committed to "some prison, police station, or other place provided for the detention of persons in custody" for such reasonable time, which may be extended by the court, as appears reasonably necessary to deliver him into custody. If he is in custody for some other cause, however, the court is not bound to order his delivery to military or air force custody.

Section 187 (3) If he does not admit the truth of the allegation, or if the court is not satisfied of the truth of any such admission, then the court is to consider the evidence and any statement he may make, and if satisfied that there is sufficient evidence for him to be tried under the Act for desertion or absence without leave he is to be delivered to custody as aforesaid, unless he is in custody for some other offence, or, if the court is not so satisfied, he is to be discharged. The court need not proceed under this subsection if he is in custody for some other offence.

Section 187 (4) Where it is necessary to deal with the case under the preceding subsection, the court is to sit as examining justices, and proceed as if the case were to be committed

for trial having the same powers of remand and of enforcing the attendance of witnesses.

Section 187 (5) Again, this applies in the United Kingdom and any colony.

Section 188 (1) If a person surrenders himself as being "illegally absent" to any constable in the United Kingdom or any colony, he is to be taken to a police station.

Section 188 (2) The officer in charge of such station is to "inquire into the case," and if it appears to him that the person is illegally absent, either to deliver him to military or air force custody, or bring him before a court of summary jurisdiction.

Section 189 (1) Provides for the delivery by a magistrates' court which deals with a deserter or absentee without leave of the familiar form of descriptive return.

Section 189 (2) makes similar provision for cases which are not dealt with by a court (*see* s. 188, *supra*).

Section 189 (3) (*a*) makes such certificates evidence of the matters which they contain.

Section 189 (3) gives evidential value to similar certificates signed by various service officers who may have arrested an absentee or deserter.

Section 189 (4) gives the appropriate Secretary of State power to prescribe the form of return, the present forms being:

Army: case brought before court—Army Form 0.1618.
case not brought before court—Army Form 0.1617.
Air Force: case brought before court—R.A.F. Form 01618.
case not brought before court—R.A.F. Form 01617.

Section 190 (1) Lays upon the governors or persons in charge of civil prisons the duty of detaining persons committed as deserters or absentees until they can be delivered into military or air force custody.

Section 190 (2) places a similar duty upon persons "having charge of any police station or place other than a prison provided for the confinement in custody."

In the case of the Royal Navy the procedure is laid down by an Act which has no short title, but which is usually referred to as the Naval Deserters Act, 1847, the proper title being "An Act for the Establishment of Naval Prisons, and for the Prevention of Desertion from Her Majesty's Navy." The relevant section is s. 99 and the power of arrest by a constable, or in his absence, any other person, are similar to those in the Army and Air Force Acts, *supra*. Once a "deserter or person improperly absent from his place of duty" is apprehended then he must be taken before a magistrate, who is to "examine such suspected person." If the person satisfies the magistrate that he is a deserter or is improperly absent, or if the magistrate is so satisfied either by his own knowledge or by the testimony of witnesses, then it is his duty to commit him to prison, "transmitting" an account of the committal to the Secretary of the Admiralty, or to any commander-in-chief or officer commanding any one of "Her Majesty's ships" or vessels, "together with a description of such person and the name of the ship or vessel to which he shall or may be suspected to belong." If, however, the arrest takes place in the vicinity of a ship or vessel in commission, then the magistrate *shall*, not may, order him to be taken aboard ship instead of to prison.

Further, the magistrate must certify the name of the person apprehending the offender, who thereupon becomes entitled to consideration for a reward in accordance with the amount established by Naval Regulations, or if in the particular circumstances of the case no reward is laid down, then in the discretion of the Lord High Admiral, the Commissioners for executing his office, or the commanding officer of the offenders, a sum not exceeding £3 may be granted. Where an offender is committed to prison then he must be handed over to the naval authorities when they want him. Any person may be authorized to take the offender aboard ship, but of course the duty will usually fall to a police officer. There is no provision for a descriptive return in the case of a naval deserter or absentee, but in point of fact many courts do adapt the army or the air force form and use it for the transmission of the account of conveyance to prison, and for the description of the offender. The necessary forms of warrant for conveyance to prison or to a ship are to be found in *Oke's Magisterial Formulist*.

The Naval Deserters' Act does not specify the method of examination to be used by the magistrate, but the Act was passed in 1847, when the main duties of justices were to examine witnesses and commit if there was a case to answer, so it is safe to say that the procedure in every case save where a confession is deemed sufficient is to proceed as for an indictable offence. It is perhaps unnecessary to add that this Act covers not only the United Kingdom but also "any of Her Majesty's Dominions or Territories" and, as a matter of historical interest "the Territories under the Government of the East India Company."

Last of all, we must consider that amphibious creature, the Royal Marine. Marines become subject to naval discipline when borne on the books of a ship, but are at all times subject to the Army Act, 1955—s. 210 of that Act. However, a marine is given into naval custody if he is dealt with as a deserter or absentee, and any returns are made to the Admiralty, or the appropriate naval authority.

ADDITIONS TO COMMISSIONS

CARDIFF CITY

Mrs. Miriam Clarice Bryant, 84 Narbeth Road, Cardiff.
Mrs. Hilda Cohen, 16 Llyswen Road, Cyncoed, Cardiff.
Claude Neville David Cole, 99 Plymouth Road, Penarth, Glam.
Leonard Churchman Davies, The Red House, Mill Road, Llanishen, Cardiff.
John Alun Emlyn-Jones, 64 Dan-y-coed Road, Cyncoed, Cardiff.
Edgar Evans, 42 St. Michael's Road, Llandaff, Cardiff.
Charles Elon Harrison, The Corner House, Llantrisant Road, Cardiff.
Gwynne Howard, 33 Chamberlain Road, Llandaff North, Cardiff.
Brig. Edward William Claude Hurford, 109 Cathedral Road, Cardiff.
Frederick William Jones, Melrose, The Rise, Llanishen, Cardiff.
Griffith Vernon Wynne Jones, 112 Plymouth Road, Penarth, Glam.
Hugh Ferguson Jones, 160 Pencisely Road, Cardiff.
William Thomas Samuel Lewis, Stanmore, Llandennis Avenue, Cardiff.
Wyndham George Lewis, Widgerys, Heol-y-coed, Rhiwbina, Cardiff.
Lieut.-Cmdr. Clifford John Maddocks, Mildmay House, Pwllmelin Road, Llandaff, Cardiff.
Mrs. Ethel Mills, 33 Mayfield Avenue, Cardiff.
Vernon Minton, 284 St. Fagan's Road, Fairwater, Cardiff.
John Hinds Morgan, 14 Murrayfield Road, Cardiff.
John Trevil Morgan, Llaneinydd, St. Nicholas, nr. Cardiff.
Mrs. Helen Pooley, 3 Moira Terrace, Cardiff.
Mrs. Irene May Protheroe, 55 Llandennis Road, Cardiff.
Anthony Bedford Steel, The Woodlands, Leckwith Hill, Cardiff.
William Frank Tompkins, 4 Tydfil Place, Roath Park, Cardiff.
Gerald Alun Smith Turnbull, 14 Queen Anne's Square, Cardiff.
Harry Turner, 60 Sandringham Road, Cardiff.

FOLKESTONE BOROUGH

Thomas Leslie Elvy Franks, 40 Kingsnorth Gardens, Folkestone.

ADMINISTRATION IN NORTHERN RHODESIA

[CONTRIBUTED]

A great deal is written about the principles of colonial administration—about indirect rule, political development in the Colonies, and such things. Less is written about the actual process of Administration—and about the administrator himself.

The popular imagination, with perhaps one or two films in mind, holds an image of the district commissioner as a bronzed figure in shorts, a bush jacket and a topee who, stick in hand, strides through native villages, stern but benevolent; paddles nonchalantly down rivers, through tropical vegetation, in a dugout canoe; and holds conferences with chiefs and elders seated under a tree, occasionally illustrating his point by drawing diagrams in the dust with a twig.

So he is visualized. And it is a true picture—except that topees are now out of fashion, and he does not normally walk through the bush; he cycles.

What is not quite so apparent is what "the D.C." is doing as he paddles and cycles the miles away, and draws his dusty diagrams.

The administrator on a bush station in Northern Rhodesia has two main tasks—to keep things as they are, and to change them. Less enigmatically, he has first to keep the existing machinery of government in operation; and then to implement the Northern Rhodesia Development Programme as it affects his district.

For administrative purposes Northern Rhodesia is divided into seven provinces. Each province is divided into a number of districts. And each district is governed by a district commissioner and one or more district officers. There may also be officers from such specialist departments as Agriculture and Public Works.

Typically, a district commissioner with his D.O.'s will be in charge of an area of some 10,000 square miles, inhabited by perhaps 100,000 Africans, of a number of different tribes.

Central to the district is the administration's headquarters, "the Boma," of which the D.C. is head. And a small boma consists of a few European houses, the houses of the African staff, the court-house and prison, the post-office linked by wireless to the provincial headquarters, perhaps one or two departmental offices, and the emergency airstrip.

There are, of course, minor buildings also—the rest houses for Europeans and Africans *en route*, the carpenters' shop, the cattle kraal, the African welfare hall.

All these things are the administrator's responsibility, besides the Native Authorities in the district. For he is a jack-of-all-trades. He must maintain buildings and minor roads and bridges, make furniture, order government stores, care for the boma herd, keep an eye on the station plantation, see that the rest house has clean linen and a store of tinned food, and write an interminable series of minutes.

Although a large part of his time is spent touring the district, an even greater part is spent on the station.

Here he wades through correspondence daily, on an unlimited number of topics ranging from silicosis compensation to forestry, from meteorology to vehicle maintenance, and from peasant farming to finance.

In fact, finance is a large part of his work. Apart from the responsibility for government finance in his district, he supervises Native Treasury accounts very closely, and checks the accounts of the post office. Each district, as does each Native Treasury, prepares estimates of revenue and expenditure annually. When approved, expenditure has to be controlled—and this means deciding how many labourers to employ at any one time, and for which jobs; how many nails, messengers' uniforms, and tins of paint to order; and when the staff are due for increments.

It means balancing the books once or twice weekly, ordering cash, and working on a trial balance for each Native Treasury each month, when the clerks come in or their Treasury is visited.

Then every morning there are the "outpatients," Africans wanting to be seen. They come to get tax exemption for having twins, to get a permit for a shotgun or a village shop, to collect remittances from relatives on the Copperbelt, to ask for a job or to complain about something, or they even come just to pass the time of day, as they arrive back in the district from a long journey.

When they have all been seen it is time, perhaps, to have a walk around the station: inspect the prison, have a chat with the carpenters, see how the new African welfare hall is coming along, drop into the office of the agricultural officer. The dispensary needs a new door-knob. The cattle kraal could do with a fresh coat of whitewash. The petrol stock is running low—the lorry must be sent in for more. The dispensary assistant is worried about his stock of medicines. The district messengers say that they are due for new boots, and we have no size sixes.

The mail bus arrives. Back to the office to see what there is. The head clerk complains that a bed that came on the bus for him has arrived broken. There are two queries from the Accountant-General about the Road Vote.

It is a change to get out on tour. To the first camp by lorry, then off each day with the chief and a long, cycling, retinue through the villages.

In each village a discussion with the people. The tax register is checked, the village and its gardens looked over.

On to a new camp in the afternoon, a meal, then the "outpatients" again, from the villages around. Can the boma send messengers to kill some of the wild pigs ravaging the gardens? Can something be done about the local shortage of gun-powder for muzzle-loaders? Can a school be built near-by?

Sitting under the fly of the tent in the evening with the radio tuned to the Belgian Congo, time, perhaps, to make a preliminary draft of the tour report for submission to the Provincial Commissioner and the Governor. And, later, sit around the camp-fire for a while with the carriers before turning in.

All this is "routine admin," seeing that what is goes well. There is also the development work—part of the £53 million Northern Rhodesia Development Programme.

There may be a peasant-farming scheme under way. But this will be done by the agricultural officer. There may be a cattle-training scheme in operation. There may be an area development school to be built and operated. The Native Authorities may be receiving grants for experimental farms—have they ordered the ploughs and trek chains? There may be. . . .

A Native Authority messenger arrives, with a villager who has appealed from the senior chief's court. The administrator becomes the local magistrate. The witnesses are heard.

That tour report must be finished to-night. And, yes, the auditors are coming on Tuesday, the day after the Game people arrive from Lusaka to talk about the Game Reserve.

As he walks back to his house in the early evening, music drifts up from the newly-completed Welfare Hall, and there is drumming from the near-by village. These rain ditches will have to be cleared out soon—have a chat with the D.O. about it, when he comes round for a drink before dinner.

MORE ABOUT CONFERENCES

By PHILIP J. CONRAD, F.C.I.S., D.P.A. (LOND.), D.M.A.

Yes, despite the air of finality with which the dissertation on conference expenses at 121 J.P.N. 52 concluded, here is a little more about conferences, necessitated by the appearance on the scene of the Institute of Conference Management, the formation of which has attracted comment in the professional journals.

The founding of this Institute at Harrogate last October by a representative gathering of conference secretaries of 17 organizations signifies in itself the important part conferences now play in national life, and even in international affairs. In a note containing general information, the Institute points out that the conference is, moreover, firmly established as a powerful educational and administrative tool, and refer to the need for a co-ordinating body to speak on matters of collective interest.

The Institute declares that it intends to create files of information on all matters and to act as a clearing house of knowledge and experience in the conference world. It aims to promote the better understanding of the value of conferences, which are so often subjected to ill-informed attack (this is one of the points made at 120 J.P.N. 756) and to seek to help towards the perfection of the conference as an instrument. Meetings will be held, and an annual conference of its own. Members are to receive regular news bulletins. Whilst the Institute will always be ready to help individual members, it stresses that it has no intention of interfering in their own affairs.

Its initial programme has a threefold purpose, namely—(*a*) to inquire into conference arrangements made by host towns, with a view to seeking improvements; (*b*) to endeavour to raise the standard of hall facilities such as seating and acoustics; (*c*) to investigate the possibility of securing more favourable hotel and transport terms for conferences.

Membership of the Institute, which extends far beyond the local government realm, is open to any organization holding conferences or meetings, and gives the right to nominate a representative to attend meetings, etc., on its behalf. The annual subscription ranges from £2 2*s*. to £5 5*s*. according to the number of conference delegates of the organization. Provision is also made for individual officers of associations or companies to become associate members at an annual subscription of £1 1*s*. Applications have to be made on a form obtainable from and returnable to the Institute's Honorary Secretary, Mr. K. Wyndham Brown, F.C.I.S. (at 8, Orange Street, London, W.C.2), to whom the writer is greatly indebted for the foregoing information.

The Institute's objectives will undoubtedly put it into touch with many of the local authorities administering the principal host towns, so that local government has a close interest in the Institute in the dual sense of enjoying indirect membership through the conference-organizing bodies to which individual authorities belong, and acting as the target in connexion with the aim of achieving improved conference arrangements.

In re-opening the topic of conferences, the opportunity must be taken to express regret at the erroneous impression which may have been caused at 120 J.P.N. 755 that the County Councils Association holds an annual conference. It is hoped that any such impression may have been rectified to some extent at 120 J.P.N. 788, where the special position of that association was made rather clearer, if only by implication. As a point of interest, it is noteworthy that, in the Local Government (Allowances to Members) Regulations, 1954, the Minister of Housing and Local Government caters for the possibility of an annual conference (including or not including an annual meeting) of, *inter alia*, the County Councils Association.

Readers will have appreciated the further information enlarging upon the article at 120 J.P.N. 755 kindly provided by the Secretary of the County Councils Association in his letter to the Editor, published at 120 J.P.N. 825.

Two comments remain to be made, supplementing the article concerning conference expenses at 121 J.P.N. 52.

Since its publication, the Minister of Housing and Local Government has made the Local Government (Allowances to Members) Regulations, 1957, distributed under cover of circ. 8/57. The regulations came into operation on January 18, 1957. The rate for travel by a member's own private motor vehicle still cannot exceed 2*d*. a mile, unless such travel results in a substantial saving of the member's time, is in the interests of the body, or is otherwise reasonable, in which case the rate may now be within the new higher limits laid down, depending on the size of car and the overall mileage in any one financial year. The increased rates will cease to apply when the higher petrol duties are lifted. It is re-emphasized that, meanwhile, private vehicles should be used as little as possible during the present petrol shortage. Accordingly, there is little likelihood that the afore-mentioned mileage rates will apply to conference expenses whilst rationing lasts and, when it is over, the rates will revert to those prescribed in the Regulations of 1954.

Although no announcement has yet been made by the National Joint Council for Local Authorities' Administrative, Professional, Technical and Clerical Services, it may be confidently expected that the ceiling salary for first-class travel by heads of departments and deputies not within the sphere of the Joint Negotiating Committee for Chief Officers will soon be raised to £994 5*s*. *per annum*, in accordance with the recent 2½ *per cent*. arbitration award.

BOOKS AND PAPERS RECEIVED

Stone's Justices Manual, 1957 (89th edition). Butterworth & Co. (Publishers) Ltd., 88 Kingsway, London, W.C.2. Price: Thin edition 95*s*., postage 2*s*. 6*d*. extra; Thick edition 90*s*., postage 3*s*. extra.

Prisons and Borstals. Her Majesty's Stationery Office. Price 5*s*. net.

WEEKLY NOTES OF CASES

COURT OF CRIMINAL APPEAL

(Before Lord Goddard, C.J., Hilbery and Streatfeild, JJ.).

R. *v.* PERFECT

Criminal Law—Sentence—Supervision order—Convictions "on at least two previous occasions"—Separate appearances at separate courts of quarter sessions or Assizes required—Criminal Justice Act, 1948 (11 *and* 12 *Geo.* 6, *c.* 58), *s.* 22 (1).

APPEAL against sentence.

On August 25, 1952, the appellant was convicted of larceny and placed on probation for two years. He committed a further offence of office-breaking and larceny during the period of probation, and on August 23, 1954, he was sentenced by quarter sessions to 12 months' imprisonment for these offences and to a concurrent term of 12 months' imprisonment for the original offence of larceny in respect of which he had been placed on probation. In January, 1957, he was convicted by a magistrates' court of unlawful wounding and was committed for sentence to East Kent quarter sessions under s. 29 of the Magistrates' Courts Act, 1952. At quarter sessions notices under s. 23 of the Criminal Justice Act, 1948, were proved, and the appellant admitted the aforementioned convictions and sentences. Quarter sessions passed a sentence of 18 months' imprisonment and made a supervision order under s. 22 of the Criminal Justice Act, 1948.

By s. 22 (1): "Where a person is convicted on indictment of an offence punishable by imprisonment for a term of two years or more and the person—(*a*) has been convicted on at least two previous occasions of offences for which he was sentenced to Borstal training or imprisonment . . . the court, if it sentences him to a term of imprisonment of 12 months or more, shall, unless having regard to the circumstances, including the character of the offender, it otherwise determines," make a supervision order.

Held, that the words "at least two previous occasions" in s. 22 (1) referred to two separate appearances each at a separate court of quarter sessions or Assizes; as, by virtue of s. 12 (1) of the Act, the conviction in respect of which the probation order was made did not rank as a conviction until the appellant was subsequently sentenced in respect of it, when he appeared before the same court by which he was convicted in respect of the later offences, he had not been convicted "on two previous occasions" within the meaning of s. 22 (1); and, therefore, the supervision order had not been validly made and must be quashed.

Counsel: *G. Davey,* for the appellant; *Dorothy Knight Dix,* for the Crown.

Solicitors: *Registrar, Court of Criminal Appeal; Prosecuting Solicitor, County Hall, Maidstone.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law).

MAGISTERIAL LAW IN PRACTICE

FOOD AND DRUGS ACT, 1955

Watered Milk and the Freezing Point Test

In *Bell's Sale of Food and Drugs* (13th edn.) at p. 872 it is stated that, "Many public analysts consider that the freezing-point depression provides a trustworthy answer to the question whether a sample of milk contains extraneous water or is naturally deficient in milk-solids. The limits for the freezing point depression of genuine milk are said to be – 0.525 *degrees* and – 0.565 *degrees*. A sub-committee of the Scientific Advisory Committee for the Department of Health for Scotland has stated that the test is capable of furnishing conclusive evidence of the presence or absence of added water and that the minimum freezing point depression for genuine milk should be fixed at – 0.530 *degrees* C. Watered samples give a figure nearer to zero—perhaps between – 0.4 *degrees* and – 0.5 *degrees*. The subject was dealt with in a lengthy paper written by Elsdon and Stubbs and published in the *Analyst* (1930, vol. 55, p. 423) and other scientific journals. Prosecutions are now sometimes instituted in respect of watered milk on the strength of the freezing-point determination, even when the percentage of solids other than fat exceeds 8.5."

A case was heard last summer at the Bexhill magistrates' court when the county analyst gave evidence based on the freezing point test. For the defence the analyst to the city of Westminster was called, and his evidence, in which he referred to various articles in professional papers on the matter, was to the effect that the freezing point test could not be considered a really reliable test and in his opinion the milk in question was genuine milk.

In view of this conflict of expert evidence, the court felt considerable doubt, and dismissed the case. It is understood that similar evidence in similar cases was given elsewhere in the area with the same ultimate result.

Recently, however, again at the Bexhill magistrates' court, another defendant was summoned on two charges under s. 32 of the Act, on the information of the inspector of weights and measures for the East Sussex county council. At the first hearing, 25 samples of milk were produced by the prosecution, including appeal to cow samples, which upon the request of the defence, pursuant to s. 112 of the Food and Drugs Act, 1955, were sent to the government chemist for analysis. In due course the government chemist reported to the court that whilst he had been unable to carry out the freezing point test, which in his opinion was the most reliable test, owing to the decomposed state of the samples, as a result of the tests he had carried out, he was satisfied that the suspect samples contained added water. He quoted exhaustive figures in support of this conclusion.

At the adjourned hearing both sides appeared by counsel—the prosecution determined to prove the reliability of the freezing point test, and the defence determined to dishonour it. The prosecution in outlining their case alleged that 2.27 *gals.* of water had been added to 75¼ *gals.* of milk on one date and that 1.6 *gals.* of water had been added to 73¼ *gals.* of milk on another date. The farm manager was in fact proceeded against by the prosecution under s. 113 (3) of the Act, as the owner was abroad at the time in question, and no blame could in any way be attached to him. Finally the prosecution said that the county analyst had tested the samples with the freezing point test "which was generally regarded as the most accurate."

After the evidence of a more formal nature, the first expert, Dr. John Gilbert Davis was called. He gave the following amongst his qualifications, Doctor of Science, Doctor of Philosophy, Fellow of the Royal Institute of Chemistry, Member of the Royal Institute of Biology, Fellow of the Royal Society of Health, and Examiner in Technology of Dairy Science, author of a number of books relating to milk testing, and a member of a number of committees, including the testing of milk. Dr. Davis stated that he had been engaged for 29 years in research of the kind in question. Dr. Davis said that he had studied the results of the tests as shown on the county analyst's certificates (25, including eight Appeal to Cow Tests). He said "The freezing point test is indisputably the most accurate method of detecting added water in milk. The average freezing point is taken as – .530 *degrees* C. This gives a benefit of about three *per cent.* to the producer as – .545 *degrees* C. is usually the average freezing point of genuine milk." Dr. Davis continued "If you have got the appeal to cow samples, the more accurate method is to take the freezing point of the appeal samples as a basis."

This comparison is considered more reliable than a comparison with – .530 *degrees*. Dr. Davis then dealt with the various figures in detail, and said "I have no doubt that water has been added, assuming the freezing point tests have been accurately carried out." He estimated that 2.27 *gals.* and 1.61 *gals.* of water had been added in the 75¼ and 73¼ *gals.* in question.

Dr. Davis was then cross-examined at length, when he stated that he regarded the fat content *per centage* as an unreliable test for adulteration, and the non-fatty solids *per centage* test as less unreliable. He stated that Friesian herds (as in the present case) were well known to produce genuine milk below the standards for fat and non-fatty solids. He agreed that the figures given by the government chemist were less reliable than the county analyst's owing to the advanced state of decomposition of the samples forwarded to the government chemist, and stated "I would not have expressed the opinion he (the government chemist) has on the figures." Dr. Davis was cross-examined at length on the effect of an unbalanced water consumption by the herd, and the effect of feeding from very wet spring pastures, on the

freezing point test. He agreed that these might have some effect on the freezing point, but said "but you still have the appeal figures for comparison." Dr. Davis dealt with articles produced to him in the *British Food Journal*, and *The Analyst*, dealing with the freezing point, and suggesting its unreliability in certain conditions, but said "All these cases of higher freezing points in genuine milk have been associated with extremely abnormal conditions." He did not agree, nor had it been suggested, that such conditions were present in the case in question.

The next expert witness called, was Eric Voelcker, who gave the following amongst his qualifications, Associate of the Royal College of Science, Fellow of the Royal Institute of Chemistry, public analyst for five counties and three boroughs, agricultural analyst to five counties and one borough, president of the Royal Society of Analysts, consulting analyst to various bodies, and member of various advisory committees to the Ministry of Agriculture and Fisheries. He stated that he had been in practice 29 years. He entirely corroborated Dr. Davis's evidence and stated "In my opinion when you've got appeal to cow samples the freezing point test, if properly carried out, is the most accurate method of testing for added water."

Finally the prosecution called Reginald Frank Wright, who gave the following amongst his qualifications, Bachelor of Science, Fellow of the Royal Institute of Chemistry, public analyst to the county of East Sussex and various boroughs. He stated that he had been a public analyst for some 20 years, and gave evidence as to the accuracy of the tests he had made, and certificates he issued in the case.

For the defence evidence by the defendant, his employer, and his son was given on the facts to be followed by his expert witness, Frederick William Edwards, who gave the following amongst his qualifications, Fellow of the Royal Institute of Chemistry, public analyst to the city of Westminster, consultant analyst to the Royal Institute of Health and Hygiene. He dealt with the county analyst's and government analyst's figures in some detail and said "In my view the freezing point test has recently had some nasty knocks," and referred to the paper in *The Analyst*. He stated that he had worked out the Vieth ratio from the government analyst's figures which showed that the suspect milks were nearly all abnormal milks and in that light "the freezing point test would not be a lot of use." He finally stated that in his opinion all the milks were genuine milks—abnormal but not adulterated.

In cross-examination, Mr. Edwards was particularly closely questioned as to his views of the freezing point test—no doubt in view of evidence he had given on its reliability in earlier prosecutions. On this point he said "I think the freezing point test is a reliable test when properly done—that has always been my opinion. Assuming the freezing points produced are accurate, then water has been added to this milk. I contend from other matters and figures the county analyst made a mistake in arriving at these freezing points. In my view the freezing point test is the best test. I accept that the freezing point test is the most reliable test." Later he said "I put in the papers in the *British Food Journal*, and *The Analyst*, to show that the figure of – .530 may be unfair to the vendor. The figure may be – .515 or – .514." Mr. Edwards agreed that some of the samples of suspect milk failed even by those standards.

The justices, after a brief retirement, convicted the defendant on each charge, and, in view of the large sum involved for costs, imposed penalties of £5 on each charge, and ordered him to pay a total of £220 0*s.* 6*d.* costs, inclusive of the sum of £100 16*s.* government chemist's fees. The reliability of the freezing point test had been vindicated !

We are indebted to Mr. Logan A. Edgar, clerk to the justices for the county borough of Hastings, for reporting these cases to us.

The Birmingham Post. March 29, 1957.

DOCTOR ACCUSED IN CLOSED COURT

After an all-day hearing in private at Cheltenham magistrates' court, Stanley Arthur Bond, a consulting gynæcologist of 10, *Imperial Square, Cheltenham, was last night committed for trial at Gloucester Assizes accused of two offences against girls.*

He was summoned with having between June 1, 1955, *and July* 31, 1955, *indecently assaulted a* 10*-year-old girl and between August* 1, *and August* 31, 1956, *assaulted a* 12*-year-old girl.*

An application for the justices to sit in closed court was made by the defending barrister, Mr. Stephen Terrell.

Appearing for the Director of Public Prosecutions, Mr. Prys-Jones, said it was usual to clear a court when young children were giving evidence, apart from those concerned in the case.

"Unusual"

"My friend," he said, "is making an unusual request that the whole case shall be heard in closed court. I certainly do not support it. On the other hand, I do not oppose it."

After ten minutes consideration the presiding magistrate, Mrs. P. Ingram, said, "We have considered the matter most carefully from every possible angle and we have decided to take the rather unusual course of hearing it in closed court."

When the court rose, it was announced that the magistrates had found that there was a prima facie *case to answer and Bond was committed for trial. Bail was allowed.*

Subject to the provisions of any enactment to the contrary, a magistrates' court trying a case summarily must sit in open court (s. 98 (4), Magistrates' Courts Act, 1952).

By s. 4 (2) of that Act, however, "examining justices shall not be obliged to sit in open court."

In this case the magistrates were acting under s. 4 (2) and were therefore entitled to sit *in camera* and to exclude the public and the press.

In the recent trial of Dr. John Bodkin Adams, in which he was acquitted of murder, at the Central Criminal Court, Devlin, J., in the course of his summing up to the jury said, "I would like to say this, and I say it with the approval and the authority of the Lord Chief Justice—it is not desirable that on matters of this sort Judges should express what are merely their personal views—I think it would have been wiser in this case if these preliminary proceedings before the magistrates had been held in private; because when you have a case which arouses widespread discussion it is inevitable reports should appear in the press, and as I reminded you in the beginning of this case, the proceedings before the preliminary magistrates were quite different from the proceedings as they emerged in this court. They would be read by the public consequently and by members of the public who might be asked to serve on the jury. I hope it will not be thought that I am making any serious criticism of the decision of the magistrates in the sense that I do not feel myself it was the right one, because they had a difficult decision to take and they were following what has become an almost universal practice of holding these proceedings in public. Nor am I making any criticism of the general rule that except for a good and special reason it is best that all stages of the criminal processes should be conducted in open court, as part of our tradition.

But there are two points that must be remembered. The first is that Parliament itself gave a discretion to magistrates, and when Parliament gives it, it intends it to be used unless there may be exceptional cases. The second is that these preliminary proceedings were first laid down in the Act of 1848 for the benefit of the accused. It would be, I think, a very unfortunate thing if proceedings which were designed for the benefit of the accused could indirectly result or may turn out to be prejudicial to his interests."

He went on to say that in every case where application was made for the exclusion of the public the magistrates could not do better for guidance than go to the words of the Act of 1848 which dealt with the matter (*The Times*, April 9, 1957).

The words referred to are those of s. 19 of the Indictable Offences Act, 1848, which read as follows: "That the room or building in which such justice or justices shall take such examinations and statement as aforesaid shall not be deemed an open court for that purpose; and it shall be lawful for such justice or justices, in his or their discretion, to order that no person shall have access to or be or remain in such room or building without the consent or permission of such justice or justices, if it appear to him or them that the ends of justice will be best answered by so doing."

Section 19 of the 1848 Act was repealed by the 1952 Act, and replaced by the simple words of s. 4 (2): "examining magistrates shall not be obliged to sit in open court." Examining justices may therefore sit in private "if it appear to him or them that the ends of justice will be best answered by so doing."

In cases involving indecency or immorality, in which children or young persons are concerned as witnesses, such as this case reported from Cheltenham, and whether the magistrates are acting as examining justices or dealing with the case summarily, the powers given to the court by ss. 37 and 39 of the Children and Young Persons Act, 1933, are available.

Section 37 provides that: "(1) Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court, is a child or young person is called as a witness, the court may direct that all or any persons, not being members or officers of the court or

parties to the case, their counsel or solicitors, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of that witness: provided that nothing in this section shall authorize the exclusion of *bona fide* representatives of a newspaper or news agency. (2) The powers conferred on a court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings *in camera*."

Section 39 provides that in any proceedings arising out of any offence against or any conduct contrary to decency or morality the court may direct that no newspaper shall reveal the name or other identifying particulars or publish any picture of any child or young person concerned in the proceedings. The Home Office drew the attention of justices' clerks to the provisions of s. 39 in a circular issued on February 14, 1956, and the Secretary of State suggested that the clerk should remind the court of the provisions of the section, and also that when forwarding the depositions in this type of case to the court of trial, the clerk to the justices should as a matter of course endorse a statement showing that the attention of the examining justices had been drawn to the provisions of s. 39, and that they did or did not give a direction prohibiting publication.

MISCELLANEOUS INFORMATION

NEW FOREST RURAL DISTRICT COUNCIL ACCOUNTS, 1955–56

The accounts and statistics presented by Mr. H. S. Pring, treasurer of the council, show that this Hampshire rural district of 95,000 acres and a population of 45,000 is in a strong financial position. At March 31 the balances on general and special district accounts totalled £54,000 and were represented by cash in hand. The general account balance was equal to a rate of 2*s.* 8*d.* The rate requirements of the rural district council were 3*s.* 6*d.* for the year compared with 3*s.* 9*d.* in 1946–47; in the latter year the county precept totalled 9*s.* 6*d.* whereas in 1955–56 it was 16*s.* (It is true that there was a budgetted deficit of £5,600 on the general district account for the year). The total rate of 19*s.* 6*d.* was equal to £8 6*s.* per head of population; therefore, if the method of payment of equalization grant were altered so that direct payments were made to qualifying county districts, the New Forest authority would almost certainly be worse off; it would lose the capitation grant of £24,900 which it now receives and get nothing in exchange.

The two largest classes of expenditure incurred by the council are for refuse collection and disposal (£17,000) and for sewerage and sewerage disposal (£24,000). A capital fund has been established and a contribution equal to a 2*d.* rate was made during the year. At March 31 the fund totalled £4,875.

The council purchase water in bulk and distribute it in their area. There was a net deficit on the year's working of £1,355 which was charged to General District Account.

The council have built 1,700 houses, the cost of which is being met as follows:

	Per cent.
Subsidies by taxpayers	24
Subsidies by ratepayers	8
Payments by tenants	68

The rent collection is excellent.

Standard weekly rents for post-war houses are:

For 2 bedroom houses	30*s.*
,, 3 ,, ,, ...	32*s.*
,, 4 ,, ,, ...	33*s.*

These are subject to rebates under the differential rent scheme which operated for the first time in 1955–56, when rent rebates granted amounted to £35,000 out of a total rent due of £124,000. The net amount collectable showed an increase of 14 *per cent.* over the previous year.

In addition to the provision of houses the council has also assisted its ratepayers by making advances on loan to those who have wished to borrow for the purpose of house acquisition. A total of approaching £1 million has been advanced in this way under the provisions of the Small Dwellings Acquisition Acts and the Housing Acts.

Domestic hereditaments comprise 88 *per cent.* of total hereditaments in the area: as a result of the revaluation the percentage of total rateable value of the district which they represent has declined from 60 to 43 *per cent.*

LAW SOCIETY QUESTIONS FOR THE FINAL EXAMINATION MARCH, 1957

[We are indebted to the Law Society for permission to reproduce the questions for the Final Examination, for March, 1957, as held on Wednesday, March 13 (2.30 *p.m.* to 5.30 *p.m.*)—*Ed., J.P. and L.G.R.*]

A(1)—THE PRACTICE OF MAGISTRATES' COURTS, INCLUDING INDICTABLE AND SUMMARY OFFENCES; MATRIMONIAL JURISDICTION, BASTARDY, JUVENILE COURTS, TREATMENT OF OFFENDERS, CIVIL JURISDICTION, COLLECTING OFFICERS' DUTIES, THE ISSUE OF PROCESS, EVIDENCE IN CRIMINAL CASES, AND LICENSING.

(*Questions* *1, *2 *and* *3 *are compulsory.*)

*1. Using imaginary particulars, draw a summons, returnable at a magistrates' court, issued upon a complaint alleging desertion and neglect to maintain a wife and children.

*2. X, while driving a motor car on a road, knocks down and kills a pedestrian. It is considered that X is to blame for the occurrence, by reason of the vehicle's fast speed, but that the evidence would not support a charge of manslaughter. What other charges might be preferred against X?

*3. Mrs. Roberts has obtained an order against her husband whereby he must pay her £3 per week maintenance through the court collecting officer. Recently, Mrs. Roberts has entered a mental hospital as a voluntary patient. The social worker of the hospital requests the collecting officer to pay future amounts of maintenance to the hospital secretary and states that part thereof will be used for the patient's comforts and the balance accumulated for her benefit. Is the collecting officer justified in adopting this suggestion and, if so, what precautions should he take?

(*Attempt seven and no more of the remaining questions.*)

4. J alleges that he has been attacked by A, B and C. He prosecutes all three for assault with the following result:—A—case dismissed. B—case proved, fined £2. C—case proved, bound over to keep the peace. Thereafter J takes civil proceedings for damages against A, B and C. How should the defendants be advised?

5. It is alleged that Simpson failed to conform to a halt sign while driving his motor car on January 1. He was not warned at the time that the question of prosecuting him would be considered and he has not been sent a notice of intended prosecution. On January 10, a summons for the alleged offence is issued against him, returnable on January 30. This summons is sent by registered post. On the hearing, Simpson fails to appear and the prosecutor cannot prove that the summons has come to his knowledge. May a second summons be issued?

6. Brown having been convicted and fined at a magistrates' court, appealed to the quarter sessions. Four days before the sessions, Brown decides to abandon his appeal. What procedure should be adopted and what steps may the prosecutor take to recover the costs which he has already incurred in connexion with the appeal?

7. Jane has been committed to the care of a local authority. Boarding out has proved unsatisfactory owing to the girl's conduct. The children's officer is of opinion that Jane requires stricter discipline and training than a fit person order provides. What action may the officer take with regard to the matter?

8. Mary, a single woman, while residing in York, has intercourse with Ian, who normally resides in Edinburgh. Ten months later, Mary gives birth to a child in London. She alleges that Ian is the father. Shortly after the birth, Mary removes to Birmingham where she now resides. She wishes to take affiliation proceedings against Ian who has returned to Edinburgh. Where may she apply and how does jurisdiction arise?

9. A newly appointed licensing justice asks you to explain the meaning of the term "monopoly value." How would you do so?

10. Stephen is charged with indecently assaulting Joan, aged six years. He is further charged with a like offence against Ellen aged 12 years. He elects to be tried summarily. On the hearing of the former charge, it transpires that Joan does not understand the meaning of an oath and she makes a statement without being sworn. Ellen was present at the time of this alleged offence and gives evidence on oath to confirm Joan's complaint. No other material evidence is called. Stephen's solicitor submits that this charge should be dismissed. How would you advise the justices?

11. A public health inspector visits a butcher's shop and finds certain meat which appears to him to be unfit for human consumption. What steps may he take to have the meat destroyed? If the butcher disputes the inspector's opinion, what opportunity will be given to him to do so?

12. Jones has issued a summons against Williams, aged 23, alleging that the latter has assaulted him and thereby occasioned him actual bodily harm. When the case is called, Williams'

solicitor suggests that his client should be tried summarily. Jones' solicitor, however, desires that the defendant be committed for trial. How would you advise the justices ?

A(3) Local Government Law and Practice

(*Questions* *1, *2 *and* *3 *are compulsory.*)

*1. Jones, driving his car negligently, injures police constable Smith of the Loamshire constabulary. Smith is unable to carry out his duty for some time, during which, as required by Home Office Regulations, he is paid his full pay. Can (*a*) Smith, (*b*) the Loamshire county council, or (*c*) the Loamshire standing joint committee, sue Jones ?

*2. Robinson wishes to set up in the county borough of Barchester a workshop for processing radioactive waste from a nearby nuclear power station. The borough council are advised that this would constitute a danger to the health of the neighbourhood. How may they prevent Robinson from setting up the workshop ? (Do not deal in your answer with powers under the Planning Acts.)

*3. The Barsetshire county council, at their meeting in April, 1956, delegated to their education committee for one year all the powers of the council under the Education Acts, other than those relating to the raising of loans or precepts. At their October meeting the council revoked this resolution. What executive powers, if any, have the education committee now ?

(*Answer seven and no more of the remaining questions.*)

4. Henry and Thomas, the two urban district councillors for the North Ward of Mudton, retire together in 1957. Both are renominated, and there are no other nominations. Henry's paper is subscribed by a proposer and seconder only, and the returning officer is aware that Thomas has sold his house in Mudton, and that he has no other qualification for election. Discuss the position.

5. The Loambury Corporation Act (a local Act) gives the Loambury corporation power to make such regulations as they deem expedient for the proper use of Loambury Common, such regulations when made to have force as if contained in the Act. The corporation has made regulations, but did not, as required by the Act, first deposit them in draft and advertize the deposit. The regulations interfere with John's existing right to pasture cattle on the common. Advise John.

6. The Barchester corporation, in reviewing their slum clearance programme, discover that there is insufficient space in the borough for the rehousing of all those to be displaced. What powers have they to house them elsewhere ?

7. The Mudville Voluntary Aided Primary School is in the county of Loamshire. The following matters require attention:—(*a*) A floorboard has given way; (*b*) A door has come off its hinges; (c) There is a dangerous pothole in the playground; (*d*) During a recent election, when the school was used as a polling station, a candidate's car, without negligence, damaged a gatepost. Who is responsible for dealing with these matters ?

8. In what circumstances may a parish council be a library authority ? What are its powers ? How may it relinquish the function ?

9. Brown owns and occupies Chickton Heath, in the rural parish of Chickton, which is not subject to common rights, but over which pass a public footpath and a green lane which, though little used, is a public carriageway and repairable by the inhabitants at large. In the interests of good farming Brown wishes to stop the carriageway and divert the footpath, so that he may plough them up. What action should he take ?

10. How far is it true to say that county councils may not retain for their own use the amounts they receive in exchequer equalization grant ? What is the position where the county receives no such grant ?

11. William owns and occupies "The Laurels" which stands in its own grounds, about 50 *ft.* from Low Street. The urban district council, which supplies water under the Public Health Act, 1936, has a water main in Low Street, but it runs along the other side of the road. How may William obtain a supply of water for "The Laurels," and how will the cost be met ? Would the position be different if William required the water for a laundry ?

12. A borough council wish to acquire compulsorily:—(*a*) Land owned by statutory undertakers and used for the purposes of their undertaking. (*b*) Land owned by statutory undertakers, but held for investment. (*c*) A registered ancient monument. (*d*) Land belonging to a local trust for the preservation of places of natural beauty. What restrictions are there on their acquisition of such land ?

SHEFFIELD JUVENILE COURT

Although it is possible for justices other than those who found a defendant guilty and then remanded him to deal with the case finally, it is obviously desirable that so far as is possible the same justices should deal with the case throughout. This is largely a question of arranging the rota. In the report of the Sheffield juvenile court panel for 1956 it is stated that under the rota system adopted the chairman and one of the deputy chairmen sat in rotation every third week. The other members of the panel sat in turn, but so that at each sitting there were present one member of the court and a chairman (or deputy chairman) who had sat three weeks before. This arrangement greatly facilitated the treatment of juveniles after a three weeks' adjournment for reports. There was a remarkable reduction this year in the total number of offences proved—433 compared with 524 in 1955. The indictable offences number 246 (the lowest since 1946–47) compared with 363 in 1955. Larceny decreased to 176 compared with 240 in 1955, and breaking and entering to 60, compared with 115 in 1955. Fewer children were brought before the court during the year, and that is encouraging. However, as the report says, it is only over a long period that trends can be assessed.

The opinion expressed about detention of young persons in a remand home under s. 54 of the Children and Young Persons Act, 1933, is worth notice, though it may not be shared generally. A detention centre being now available to the Sheffield juvenile court, the court may no longer send a young person to the remand home under s. 54. The report says: "This change is regretted since in the past there have often been cases where committal to the boys' remand home, even for one month, under the strict personal supervision and influence of the superintendent, has been really beneficial and has taught the offender a valuable lesson."

As to the attendance centre, the report states that of 385 boys sent there during five years, 75 *per cent.* have not reappeared before the court.

NEWCASTLE UPON TYNE PROBATION REPORT

Probation, which is in lieu of sentence, does not convey the idea of punishment, but in reality many probationers regard the discipline and obligations involved in it as punishment. As time goes on most probationers appreciate the value of the friendship and advice they receive, but it is a good thing for some of them at all events to feel something that they look upon as punishment.

Mr. F. Morton Smith, clerk to the justices and secretary of the probation committee for Newcastle upon Tyne, in his foreword to the annual report of Mr. John Taylor, principal probation officer, refers to probation as "this form of reformative punishment." He notes that the peak age for the commission of offences is 13 and, though he hesitates to generalize, he suggests there is room for optimism, as he thinks that by the court applying a suitable admixture of deterrent and reformative treatment in the use of probation, children are being taught to use their spare time usefully and he suggests that the steady down-curve after that age reflects this constructive approach to the problem.

Case committees, which in some areas meet at considerable intervals, have met once a month and the review by members of the committee of the cases has been regularly carried out. The probation committee met at least once each quarter.

It is conceded generally that pre-trial inquiries are less open to objection in the case of juveniles than in the case of adults although a remand for inquiries is preferable. In Newcastle we find that pre-trial inquiries were made in all cases appearing before the juvenile court charged with indictable offences and post-trial inquiries in a large number of cases tried in the adult court. Inquiries have also been made in many cases appearing before Newcastle upon Tyne quarter sessions and court of Assize.

Whereas 229 males were placed under supervision in 1956 as compared with 228 in 1955, there has been a welcome decrease in the number of females, a figure of 61 being recorded as against 90.

COUNTY BOROUGH OF ST. HELENS: CHIEF CONSTABLE'S REPORT FOR 1956 ON LICENSING MATTERS

St. Helens, with a population of 111,900, has 138 on-licence premises and 25 off-licence, together with 50 registered clubs. This gives 686 inhabitants to each licence. In the report are tables giving particulars relating to 13 towns with populations between 74,000 and 150,000. Of these Oldham (120,400) has only 312 per licence and Bootle (78,150) has 1,202. For the same towns the number of charges of drunkenness per 1,000 of the population were St. Helens .88, Oldham 1.87 and Bootle 2.03, so that the number of persons per licensed house does not seem to have much relevance to the amount of drunkenness.

The number of prosecutions in St. Helens in 1956 was 99, against 64 in 1955. It is shown that since 1951 the figures year by year have been respectively, 35, 31, 43, 70, 64 and 99. Seventy-three of the 99 were resident within the borough. There were also seven prosecutions under s. 15 of the Road Traffic Act, 1930. All were convicted. There was one sentence of three months' imprisonment, with three years' disqualification. Another offender who was fined £50 with £35 costs was disqualified for five years. Another was disqualified for two years and the other four for 12 months.

The chief constable states that it is difficult to find out what are the reasons for the increase of drunkenness, but many of the offenders are within the younger age group. Licensees and those managing clubs must not relax their efforts to maintain a satisfactory standard. One licensee had to be warned for selling liquor to persons under age, and there was an increase of three in the number of prosecutions against persons under 18 for purchasing intoxicants for their own consumption, making a total of 12 for 1956. In some of these cases stricter parental supervision is called for.

One club had to receive special attention from the police, resulting in a raid on its premises and a large number of charges of breaches of the licensing law against officials of the club and its steward and against persons who had illegally purchased liquor there. The club was struck off the register.

CITY OF LINCOLN: CHIEF CONSTABLE'S REPORT FOR 1956

Lincoln suffers from a level crossing, but some progress has been made, by the installation of traffic lights and an improved method of operating the gates, in reducing "the irritating hold-ups of road traffic," which this inevitably causes. There is a long awaited scheme for a bridge, and this bridge is now in an advanced stage of construction. When completed it will give a north-south route free of level crossings. But this gain is not made without loss, for the scheme has involved a loss of some parking space which has tended to aggravate the parking problem. There is, the chief constable states, a pressing need to increase the number of car parks in the city. Particular difficulty has been experienced in the neighbourhood of the football ground on the occasion of first team league games at home when indiscriminate parking has sometimes blocked complete thoroughfares for about 2½ hours on Saturdays. The police had to take action to remedy this trouble.

Road safety receives the same active support from the police and from other authorities in Lincoln as it does elsewhere. One feature of this campaign which is mentioned is a competition between schools in which the police visit, without notice to the children, to inspect bicycles. This seems to be an excellent method of trying to make the children keen to see that their bicycles are kept in good roadworthy condition.

The chief constable very rightly points out that the regulations which allow parked cars, in certain circumstances, to display no lights or only a parking light, "do not purport to authorize the parking of vehicles on the highway." This is undoubtedly true, but it is most unlikely that the average motorist will recognize this. He will tend to assume that if special concessions of this sort are made it is in order to facilitate the parking of cars and is a tacit encouragement of the practice.

The force is only four short of its authorized establishment of 129 men and four women, having had a net gain in strength of 11 during the year. There were 15 appointments from 82 applications. Losses numbered only four, two resignations and two transfers to other forces. The present establishment was arrived at after an increase of 11 authorized in January, 1956, to offset the reduction in hours which came into force in the previous year.

An 8.8 *per cent.* increase in crime brought the total of recorded crimes in 1956 to 703. There was, however, a 28.8 *per cent.* reduction in breaking offences. Two hundred and one persons were proceeded against for the 547 detected crimes. Juveniles were responsible for 190 of the 703 recorded crimes and this led to 78 juveniles appearing before the court. Fifty-three others were dealt with for non-indictable offences. The total number of persons dealt with for non-indictable offences was 635, 45 fewer than in 1955, and 227 persons were sent cautionary notices. Dangerous or careless driving prosecutions were 44, compared with 58 in 1955, and other offences by motor drivers and owners fell to 256, from 321.

The total number of accidents in Lincoln during 1956 was 914, and 267 of these caused death or injury. This was a slight increase in the number of accidents in 1955, but the chief constable expresses the view that as there was a nine *per cent.* increase in the number of vehicles registered in the city compared with 1955, and as the number of vehicles has more than doubled in the last 10 years "one might feel justified in claiming that the accident prevention measures taken during the year were having some effect."

PORTSMOUTH JUVENILE COURT

There has been no important reduction in the work of the Portsmouth juvenile court during the year 1956, as although the total number of cases fell by 13 *per cent.*, this was almost entirely accounted for by a fall in non-indictable offences. It is worth notice, however, that this decrease took place in spite of the fact that the city's school population of juveniles of eight years and over rose from 25,467 in 1955 to 27,861 in 1956.

The report contains some observations on parental attitudes towards juvenile delinquency, and on the vexed question of mothers at work the following comment is made:

"In some cases there appeared to be no necessity for both parents to be working outside the home. Some of the time occupied in this connexion might have been more usefully spent on the proper upbringing of the children, with due attention to their choice of friends and use of leisure hours, rather than providing them with luxuries from their augmented incomes, for which credit was sometimes claimed. It is fair to say, however, that there have been fewer instances of parents condoning their children's conduct by suggesting that it is quite natural for property left lying about to be stolen and in the majority of cases the parental attitude has been to discourage delinquency." There is some support for the contention that most juvenile offenders come from bad or at least unsatisfactory home surroundings in the statement that in 47 *per cent.* of the cases it was reported either that the juvenile was illegitimate, the home was affected by divorce, separation or the death of a parent or that the parental attitude was unstable.

There is a brief report from the officer-in-charge of the attendance centre which gives the impression that it is serving its purpose well. He has maintained contact with the lads following completion of their attendances. It appears that the majority have benefited from their instruction. Every endeavour has been made to interest the boys in the wide variety of youth organizations within the city, especially to boys' clubs.

COUNTY BOROUGH OF BRIGHTON: CHIEF CONSTABLE'S REPORT FOR 1956

This force is in a happy position in that the chief constable is able to say: "The force continued to maintain its strength at or

very near the establishment. The fact that recruitment presented no difficulty speaks well for the reputation the force enjoys and for the conditions under which the personnel perform their daily tasks."

There has been an integration of the special constabulary with the regular force at Wellington Road police station which has provided improved accommodation and has made for closer association between them and for increased harmony and added interest.

In commenting on road safety the chief constable expresses the view that the decrease in traffic resulting from petrol rationing has caused both pedestrians and motorists to exercise even less care than formerly and states that the police are trying to check this. He adds that amongst criminals today must be counted otherwise normal and respectable people who, when driving mechanically propelled vehicles, show such a degree of irresponsibility and lack of regard for the safety of others as to become a menace on the road, with their vehicles lethal weapons.

The figures of authorized and actual strength on December 31, 1956, were 283 and 281 respectively. During the year there were four retirements, one transfer-out and six resignations, against 20 appointments, four transfers-in and one rejoining the force, a net gain of 14.

The number of persons prosecuted for indictable offences was 638, including 177 juveniles. The corresponding figures for 1955 were 540 and 151. In addition, in 1956, 136 persons were cautioned. Recorded crimes numbered 1,674, an increase of 66 on the 1955 total.

In respect of 2,490 non-indictable offences brought before the court 2,397 convictions were recorded, an increase of 483 on 1955. Prosecutions for careless or dangerous driving increased by 36 to 129. There were 115 convictions.

Road traffic accidents involving casualties increased from 572 to 631. Brighton attracts a large number of visitors and some indication of the extent of this traffic is given by the fact that 281,300 tickets were issued for cars parked on highways, 17,300 more than in 1955. In August alone 47,000 were issued. No one can be other than concerned about the continuing increase in road casualties, and although there are far too many instances in which a pedestrian may by carelessness have contributed to, or been the main cause of, the accident, yet, as the chief constable rightly comments, there is always the question: "Had the motorist been more alert, had he not been looking elsewhere than his line of route, and possibly talking to his passenger, had he not been travelling quite so fast or had he reacted more quickly and intelligently to a sudden emergency, would it have occurred?" This is, in effect, an argument in favour of what has been called defensive driving which requires the motorist to be able to say, if an accident happens, not only that he was not primarily responsible for it but also that there was nothing which he did or failed to do which contributed to causing the accident.

The special constabulary numbered 86 men and six women and they were on patrol throughout the year and were also on duty at a number of specific events.

Brighton has a reputation as a health resort, but that did not prevent the force losing 1,772 days from sickness during 1956. The 1955 figures were even higher at 2,339. Calculating on a strength of 281 the 1956 figure represents just over 6.3 days per member. Such figures are, of course, deceptive because serious illness with long absences by a very small number can add considerably to the total for the force as a whole.

RELIGIOUS UPBRINGING OF CHILDREN IN LOCAL AUTHORITY CARE

Representatives of the British Council of Churches have discussed with the County Councils' Association, the Association of Municipal Corporations and the London County Council, the religious upbringing of children in the care of the local authorities. Where a child is boarded out the foster parent must agree that the child will be brought up in and encouraged to practice his religion as stated in the agreement. It was pointed out by the local authority representatives, however, that to secure a good religious upbringing of children in children's homes was more difficult. In selecting house parents, while they made such inquiries as they could about applicants' religious beliefs, they could not make religion a test for appointment. Nevertheless some authorities have found it possible to staff some cottages with foster parents of the same religious denomination as the children. It was emphasized, however, that a family group home needed the same kind of pastoral care from the clergy as did an ordinary family living in the parish and on child care grounds it was important not to treat children in the care of the local authority differently from ordinary children.

In the case of the larger homes there were particular problems in making arrangements for the religious needs of the children, who would probably come from several Christian communions. Many registered as Church of England had no more than nominal attachment. Furthermore, children with different needs and temperaments might need to be introduced to different churches, rather than taken *en bloc* to one. House parents particularly welcomed interested and understanding clergy and ministers who would assist in instilling a sense of religious values into children with no particular church affiliations.

During the discussion various methods were suggested of bringing the needs of these children to the attention of the local clergy and ministers. It was felt that this was essentially a local problem depending on personal contacts in which the first steps should be taken by the children's officer or house parents. The representatives felt also that a greater understanding would be built up if more information were available to clergy and ministers of the purposes and methods of care provided by local authorities and the part which the church should play. They hoped that the churches would seek information from local authorities, who would be glad to supply it. They had no doubt that children's officers would be willing to speak at local meetings if invited to do so. One valuable outcome would no doubt be that more people with religious background would come forward as foster parents. It was agreed that the discussion be brought to the attention of local councils of churches and of local authorities under the Children's Act, 1948, with the recommendation that they should seek ways of meeting the religious needs of these children.

RE-PLANNING THE NATIONAL HEALTH SERVICE

It is being suggested in some quarters, particularly among the medical profession, that there should be some re-planning of the National Health Service. Some are advocating the replacement of the annual capitation fee to doctors by the New Zealand system in which the doctor charges for each item of service and the patient recovers part or all of this charge by taking a certificate to the post office. But it is pointed out in a recent leading article in the *Lancet* that before any big change is made in the National Health Service arrangements the profession ought to make up its mind more clearly on how far it wants practitioners to remain in competition with one another. The competitive system allows and encourages competition for patients. The New Zealand system

would bring competition for fees and a wholly salaried service would abolish financial competition altogether. Turning to another matter, it is emphasized in the article that in the National Health Service too many incentives have worked too long in favour of sending patients to hospital when they could be treated more economically at home. Though the Ministry of Health has become keen to promote home care it has not yet created financial conditions in which practitioners and local authorities will be eager to relieve the burden on hospitals. The view is expressed that the service has suffered and is still suffering from lack of a coherent policy such as its advisory machinery was originally intended to provide. Looking at the broad issues the hope is expressed that before many years have passed the service will be largely removed from current politics by being accorded as of right a definite proportion of each year's national income.

ROAD CASUALTIES—FEBRUARY, 1957

Casualties on the roads of Great Britain increased by 247 or 1½ *per cent.* over February, 1956, although the Road Research Laboratory estimate that traffic as a whole was about 13 *per cent.* lower in February, 1957, than in February, 1956.

Casualties to drivers and passengers in vehicles other than motor cycles fell by 1,489 to a total of 4,963. Casualties to drivers at 1,753 were one third less.

Motor cyclists and their passengers suffered increased casualties, 2,835 riders and passengers being killed or injured, an increase of 902. Shortage of petrol for cars and the fine weather probably encouraged the greater use of motor cycles.

Total casualties for all classes of road user in February, 1957, were 14,831. Although more people were killed and seriously injured, there was a reduction in the number of those who received slight injuries. There were 282 deaths, an increase of nine, 3,458 seriously injured, an increase of 267, and 11,091 slightly injured, a reduction of 29.

POST-ENTRY TRAINING IN SURREY

Surrey county council are holding an advanced training course from May 27 to June 1, at their further education centre at Glyn House, Ewell, for members of the staff within the salary range of A.P.T. Grade III to VII who are "in the promotion zone for more responsible posts." This will be the second course of what is likely to be a bi-annual event: an experimental course was held in 1955.

Students meet together on staff college lines for discussion and study, under a directing staff of chief officers, of the problems connected with "the higher direction and control of county administration."

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

MAGISTERIAL LAW IN PRACTICE

The suggestion, made in the commentary under this heading at 121 J.P.N. 193, that it is incorrect that examining justices should tell the accused anything of what is alleged against him until the depositions have been taken, surely develops to its limits a popular theory based on an apparently unauthoritative interpretation of s. 7 (1) of the Magistrates' Courts Act, 1952. The words "of opinion . . . that there is sufficient evidence to put the accused upon trial by jury for any indictable offence," are interpreted to (*a*) imply a power to commit for any indictable offence disclosed by the depositions, and therefore (*b*) require that at no previous stage of the proceedings any account shall be taken of the original allegation. While agreeing that (*a*) is a necessary implication, it is difficult to see by what process of reasoning (*b*) is deduced. To the view finally arrived at, that the accused is before the justices in respect of no specific offence at all, a number of objections based on the statute and the rules made under it may be taken. Section 7 refers, before the words already quoted, to the court "inquiring into an offence"—there is nothing to suggest that at this stage they are to regard the formulation of the charge to be contingent merely. But as so much emphasis has been placed on what must happen after the depositions have been taken so as to offer guidance as to what should be done before, it may be noted that r. 5 (3) directs that, after the evidence for the prosecution has been given, the court shall cause the charge to be written down, *if this has not already been done.* It would not, surely, be placing a strained interpretation on the words italicized to suggest that they mean that the charge *may* already have been written down. Then among the documents to be sent to the court of trial mentioned in r. 12 the first is "the information, if it is in writing." This suggests that the information (*i.e.*, the original charge), may still have some relevance—as being something more than a pretext for bringing the accused before the justices. There are also practical difficulties in trying to carry out a judicial inquiry without the principal person concerned being told what it is about. To this there may be the counter-objection that the accused will, if arrested, have been told by the prosecutor the nature of the allegation. But this procedure, commonly known as "charging," has no formal significance, except in justification of the arrest, and is therefore not immediately within the purview of the justices. It is conceded that when the accused is brought before the court the prosecutor will make it clear what he is alleging, but the court cannot remain aloof if it is asked for and grants a remand; there is no provision for remand for an unspecified offence. If this were possible and the accused comes to realize that he may eventually be committed in respect of any of a number of indictable offences (presumably he may be told this), it would be embarrassing to see him trying to direct his cross-examination to that end. In conclusion, it does appear that, in the absence of any express prohibition, it may assist the ends of justice to tell the accused the nature of the allegation contained in the information laid before the court, as being the matter the justices are to inquire into; particularly as there is a high degree of probability that that is the basis of the charge upon which he will be committed if the evidence supports it.

Yours faithfully,
G. S. CHAMBERS,
Assistant Clerk to the Justices.

Justices' Clerk's Office,
Trinity Chambers,
Culver Street,
Colchester.

[Our contributor writes:

I agree that the charge *may* have been written down at an early stage in the proceedings. In fact, of course, it is in practice. Some charge appears on the police charge sheet, on the warrant or summons if any, and in the court register.

My point, however, is not concerned with the writing of the charge, but with the reading of it. As I said at p. 193 "the correct procedure seems to be" not to read any charge to the accused in purely indictable cases except as and when directed by r. 5 (3). It is then followed immediately by the caution set out in r. 5 (4).

I understand that in the metropolitan magistrates' courts the charge in such cases is never read by the court to the accused until that stage has been reached.—*Ed., J.P. and L.G.R.*]

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

I read with interest your Note of the Week at p. 170, *ante*, under the heading "Abode not Fixed." In my county, which is one of the largest inland counties, we have like others, our regular and visiting gypsies and other persons of no fixed abode passing through, in horse drawn carts or caravans.

Surely the object of s. 76 of the Highways Act, 1835, is to enable any aggrieved person to have some means of identification of the owner of a horse drawn vehicle; so that the person may later be traced and called to account for some misdeed. As such it still is a useful piece of legislation, because more often than not we act for the general public in tracing the owner for some offence like stealing, or being involved in an accident.

In my experience most gypsies have solved the problem of affixing to their carts or caravans their name and address as required by the Act, by painting such a description as "John Henry PRICE, No Fixed Abode." Some include the word "Gypsy." Many of these persons are however traceable through police records of pedlars, and local authority records of hawkers' licenses. "Ridiculous" though the requirement might seem to the armchair mind, it presents no real problem to the practical police officer on a country beat, because even with such apparently slender information at his disposal he can and does trace these

people daily, for the purpose of police inquiries, service of summons, and the like. I agree that often this entails circulation of information to surrounding police forces, but I can assure you that successful results are obtained on many more occasions than some of your readers might be prepared to give us credit for achieving, simply because they do not get to know of these achievements.

Yours faithfully,
A PRACTICAL COUNTRY POLICEMAN.

REVIEWS

Medical Negligence. By Lord Nathan with the collaboration of A. R. Barrowclough. London: Butterworth & Co. (Publishers) Ltd. Price 35s. net.

This book should be of interest not only to the legal profession and hospital administrators, but also to medical practitioners and senior nurses. Lord Nathan has been a practising solicitor, and is chairman of the board of governors of the Westminster Hospital; he wrote the book, with the collaboration of Mr. A. R. Barrowclough, in order to explain in untechnical language the legal obligations and possible legal dangers affecting medical practice. These are almost entirely creatures of the common law, as developed by judicial decision. In the last few years the number of actions against medical practitioners or hospital authorities, by dissatisfied patients or relatives of patients, has startlingly increased.

Lord Nathan's preface rejects the explanation sometimes heard in loose conversation, that this is because nationalization of the health service has produced a lower standard of medical and surgical care. He points out that the hospitals are the same as before 1948, and the medical and other staffs are also the same—subject to the normal processes of time. The Legal Aid and Advice Act may have had something to do with it and, as Lord Nathan says, there is room for further study of the question, how litigation affecting hospitals and medical practice has come to increase so much in the past eight years. Whatever the answer, there is still not a complete code of judge-made law in this country, covering all cases, and there is plenty of scope for actions by dissatisfied patients, either genuinely seeking redress or seeking speculative damages. One merit of this book is that it draws, where necessary, upon judicial decisions in other English speaking jurisdictions. Wherever principles of the common law apply, the same sort of questions may arise—when a patient is burned by a hot water bottle or falls out of bed, or whatever the misfortune suffered may be.

A valuable feature, which should commend the book particularly to medical readers and nurses who care to study it, is the synopsis of contents, and analysis of the cases from a medical point of view. These are classified under such headings as "What should a patient be told"; "Swab cases" (and analogous cases); "Communication of infection," and so forth.

Legal principles are explained in a manner to be understood by the non-legal reader, whether it is the general principles of damages or the limitation of actions, or on the other hand the chapter dealing with the precedents under English law for actions based on personal injury. It is emphasized, by extracts from judgments, that each case must ultimately be considered on its own merits, but where a generally illustrative principle is found this has often been explained in the actual words of the Judge. The delicate subject of the control of the assistants to the surgeon performing an operation is, for instance, excellently explained, in the words of a South African Chief Justice, and the High Court of Australia is drawn upon for a further explanation of the same matter. There is, on the other hand, a most lucid and suggestive extract from a judgment of Lord Justice Denning upon *res ipsa loquitur*.

A matter which causes particular interest to hospital managements is *respondeat superior*. The fundamental rule is explained in simple language, followed by numerous extracts from decisions, showing how it applies in relation to hospitals under the National Health Service, to private hospitals, and to nursing homes.

There is, no doubt, room for further development of the law, but the present book shows with the utmost clarity the stage which that development has reached at present. Upon all the topics which affect the medical and allied professions, and administrative bodies connected with medical activities, all necessary information will be found here for the purpose of showing the persons concerned their occupational hazards in the field of law, and how far the law itself will safeguard them.

PERSONALIA

APPOINTMENTS

Mr. Lionel Rysdale, M.A., who has been clerk to Sodbury, Gloucestershire, rural district council for the past five years, has been appointed clerk to Wycombe, Buckinghamshire, rural district council. He succeeds Mr. J. T. Chenery, clerk since 1953, who has accepted another post. Aged 46, Mr. Rysdale was articled to the town clerk of Lincoln from 1932 until 1935 and was admitted in 1936. After three years in private practice, he became assistant solicitor to Lincoln city council in 1939, until 1943. He left Lincoln in 1943 to become deputy town clerk to Royal Leamington Spa, staying there for four years, and then went to Birmingham as deputy clerk to Solihull urban district council (as it then was) before moving to Sodbury.

Mr. H. J. Blofield, LL.B., has been appointed assistant solicitor in the office of the clerk to Norfolk county council, Mr. F. P. Boyce. Mr. Blofield, who takes up his appointment on May 13, next, was articled to Mr. E. Taberner, O.B.E., town clerk of Croydon.

Mr. Norman Barton, F.C.C.S., D.M.A., at present managing clerk and mayor's secretary for the borough of Redcar, Yorkshire, has been appointed deputy clerk to Billingham, Co. Durham, urban district council. Mr. Barton succeeds Mr. H. B. Probert, who has taken up his new appointment as deputy clerk of Bletchley, Buckinghamshire, urban district council. Mr. Barton before going to Redcar two years ago, held various appointments in the town clerk's office at Warrington, Lancashire.

Mr. W. W. Forbes has been appointed legal assistant in the department of the town clerk of Leyton, E.10, Mr. D. J. Osborne.

Mr. Dennis Sidney Clackett has been appointed an assistant official receiver for the bankruptcy district of the county courts of Brighton, Eastbourne, Hastings and Tunbridge Wells. This appointment took effect from May 1, last.

Mr. Arthur David Gwyther has been appointed assistant official receiver for the bankruptcy district of the county courts of Southampton, Bournemouth and Winchester, the bankruptcy district of the county courts of Portsmouth, Newport and Ryde and also for the bankruptcy district of the county courts of Salisbury, Dorchester and Yeovil. This appointment took effect from May 1, last.

Mr. William Armstrong has been appointed assistant official receiver for the bankruptcy district of the county courts of Cambridge, Peterborough and King's Lynn; the bankruptcy district of the county courts of Northampton, Bedford and Luton; and also the bankruptcy district of the county courts of Ipswich, Bury St. Edmunds and Colchester. This appointment took effect from May 6, last.

Mr. Bernard James Longley has been appointed assistant official receiver for the bankruptcy district of the county courts of Bristol, Bath, Bridgwater, Cheltenham, Frome, Gloucester, Swindon and Wells, and also for the bankruptcy district of the county courts of Exeter, Barnstaple and Taunton. This appointment took effect from May 6, last.

Mr. Arthur Charles Langham Haswell has been appointed a probation officer for the city of Cardiff. This follows upon the Cardiff probation committee's decision to appoint an additional male probation officer. Mr. Haswell has been employed as a probation officer by Merthyr Tydfil county borough probation committee since February, 1955, and from April, 1953, to February, 1955, he was a probation officer in the county of Worcester. Mr. Haswell will commence his duties at Cardiff on June 1, 1957.

OBITUARY

Mr. Joseph Tumim, C.B.E., B.A., clerk of Assize on the Oxford circuit since 1942 and a deputy chairman of Oxfordshire quarter sessions since January, 1954, has died at the age of 62. Mr. Tumim took his B.A. in 1918 at Oxford. The following year he was called to the bar by the Inner Temple. In 1920 Mr. Tumim joined the Oxford circuit. For several years he practised at the Old Bailey and the London sessions and on occasions he had acted as deputy recorder at Walsall and Wolverhampton.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF COMMONS

Wednesday, May 8

NATIONAL HEALTH SERVICE CONTRIBUTIONS BILL—read 2a.

Friday, May 10

MAINTENANCE AGREEMENTS BILL—read 3a.

NATIONAL ASSISTANCE ACT, 1948 (AMENDMENT) BILL—read 2a.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Byelaws—*New streets—County Review Order—Revocation of byelaws.*

In 1923 the council made byelaws with respect to new streets and buildings. In 1940 they made building byelaws under the Public Health Act, 1936, which have since been replaced by similar building byelaws made in 1953. It is now desired to make an order under s. 30 of the Public Health Act, 1925 (which has been adopted) but the question has arisen whether there are any byelaws with respect to new streets now operative in this district. By virtue of a County Review Order of 1938, certain parts of the urban district were transferred to a neighbouring authority. Article 86 (1) of that order provides as follows:

"86.—(1) Any local government byelaws in force which were made by the council of any borough or district which is altered or abolished shall continue to apply to the area to which the byelaws extend—

(*a*) If made before January 1, 1928, for one year after the appointed day (unless previously repealed or altered) but no longer;

(*b*) if made on or after January 1, 1928, until they are repealed or altered,

and any byelaws so continued in force in a transferred area shall have effect as if they had been made by the council of the borough or district to which the area is transferred."

The appointed day for the purposes of the order is April 1, 1938.

The view has been expressed that the council's byelaws with respect to new streets and buildings made in 1923 lapsed on April 1, 1939.

I shall be much obliged by your opinion on the following questions:

1. As that part of s. 157 of the Public Health Act, 1875, relating to streets has not been repealed are the byelaws of 1923 with respect to new streets still operative in the district (ignoring for the purposes of this question the possible effect of the County Review Order)?

2. If the answer to 1 would be in the affirmative is the answer affected by clause 86 (1) of the County Review Order?

BINGO.

Answer.

1. Byelaws with respect to streets made under s. 157 of the Public Health Act, 1875, were not put out of action by the Public Health Act, 1936, which (with certain savings) repealed most of s. 157.

2. We suppose that the expression "local government byelaws" was defined in the Review Order in such a way as to include the byelaws of 1923. The policy between the wars in all county reviews, and normally in local legislation Bills altering borough and district boundaries, was to put an end to byelaws on most subjects when they were 10 years old or more. On the information in the query, the byelaws of 1923 ceased to operate on April 1, 1939.

2.—Justices' Clerks—*Fees—Proceedings under s. 6 of the Criminal Justice Act*, 1948.

AB, a young person, is dealt with summarily and convicted of simple larceny by a juvenile court and put on probation for three years with the usual additional requirement that he be of good behaviour. The court fees of 15*s.* are paid under Form D in the Schedule of Regulations relating to Costs in Criminal Cases.

Subsequently the supervising probation officer lays an information alleging AB's failure to comply with the additional requirement above mentioned and AB appears before the juvenile court which made the probation order in answer to a summons issued on the information.

The court was satisfied that AB had failed to comply with the requirement to be of good behaviour and AB is committed to an approved school for the offence in respect of which the probation order was made.

What court fees are payable and by whom? Neither AB or his parents are in a position to pay.

G.C.C.C.

Answer.

This matter has been considered at 119 J.P.N. 612, and we have nothing to add to that answer as to the fees which are payable.

It appears that in this case the fees (for information, summons, etc.) are payable by the supervizing probation officer, but the court has power under s. 113 of the Magistrates' Courts Act, 1952, to remit the fees for reasonable cause, and we understand that this course is frequently taken.

3.—Licensing—*Application for new licence—Justices equally divided—Adjournment—Whether justices who have heard and voted on application may sit at adjourned hearing.*

At the annual brewster sessions which were held this year an application was made for a new licence in respect of premises which a firm of brewers were proposing to erect. The justices who sat on the bench were in number eight. There was opposition to the application on behalf of the Free Church Council. After the justices had retired they returned to court and the chairman announced that they were equally divided and could not arrive at a decision in the matter. In view of this the matter will have to be dealt with by a reconstituted court as the chairman had no casting vote in the matter and the justices therefore adjourned the application to the adjourned brewster sessions. I desire to be advised whether the bench which will hear the matter should be constituted of the three justices who are members of the licensing committee but did not adjudicate on the application or whether in addition to these three justices it is in order for the justices who have already adjudicated on the matter to sit with their three other colleagues who, as I say, did not adjudicate on the matter. It appears to me that the best course to adopt would be for the three justices who have not already adjudicated to hear the matter themselves as they would form the quorum under the Licensing Rules. However, if you see no objection to the other members of the bench who have already adjudicated on the matter sitting again with their three colleagues, I feel that the bench would be a more representative one.

OLDOM.

Answer.

Licensing justices who have already heard an application for a new licence and voted on it are not disqualified from sitting again with other licensing justices when the application is repeated on adjournment: indeed, in our opinion, it would be wrong for any justice appointed to the licensing committee to be excluded on this ground.

It is desirable, if possible, for an odd number of licensing justices to sit for the purpose of hearing the application. Only if a majority of the justices present (whether voting or not) are in favour of granting the application will it be granted (*see* Licensing Act, 1953, s. 159).

See, generally, *Fussell* v. *Somerset Quarter Sessions Licensing Committee* (1946) 111 J.P. 45: a decision on a situation almost exactly the same as that outlined by our correspondent.

4.—Licensing—*Law touching husband and wife sitting together as licensing justices—Whether justice appointed to commission after appointment of licensing justices for petty sessions area may sit.*

1. On the licensing committee for this petty sessional division there are a husband and wife, members of the committee. At the general annual licensing sessions, the husband, on my advice, decided not to adjudicate on the application for the new licence. Will you please advise as to whether both are entitled to sit or whether the advice given by me was correct?

2. When the licensing committee was appointed in October of 1956, the whole of the justices, who then numbered 10, were appointed on the licensing committee. Since that date, however, a new magistrate was appointed in January, 1957, and this new magistrate did in fact sit at the hearing of the application for the new licence. I am now wondering, after looking at sch. 1 of the Licensing Act, 1953, whether this gentleman should in fact have sat and adjudicated on the new licence in view of the fact that he was not appointed at the meeting held in October of 1956. On referring to para. 6 of sch. 1, the Act apparently envisages the appointing of the whole bench when the number does not exceed 10 and I am not certain of the position, in view of the fact that my bench at the moment, since the appointment of the additional magistrate in January of this year, now numbers 11.

Will you please advise:

(*a*) Whether it will be in order for the 11 justices to form the licensing committee, bearing in mind that the number is still under 15 being the limit provided for in the schedule, and

(*b*) If the new magistrate is not entitled to sit, in view of the fact that he was not appointed in October last, whether the justices would now be in order to issue a resolution appointing this magistrate to the licensing committee thus entitling him to sit at the adjourned hearing.

NEFLIN.

Answer.

1. There is no law to prevent husband and wife sitting together as licensing justices; but we must qualify this statement by suggesting the probability that either or both of them, when first appointed to the commission, gave an undertaking to the Lord Chancellor that they would not sit together when adjudicating in any matter. We know that such undertakings are usually given when husband and wife are appointed to the same bench. On the grounds which prompt the Lord Chancellor to seek such undertakings, we advise against their sitting together.

2. We think that the 11 justices who act for the petty sessions area should be reduced by the husband or the wife mentioned above and also by the newly appointed justice who was not appointed to the licensing committee at the meeting held in the last quarter of 1956. There seems to be no way of appointing him now to the licensing committee except to fill a casual vacancy (*see* Licensing Act, 1953, sch. 1, pt. 1, para. 3.)

5.—Private Street Works Act, 1892—*Necessity for vesting declaration for sewer in private ground.*

The sewers of a private estate development are laid partly in the estate road, partly through gardens and, in order to connect with the nearest public sewer, through a field owned by the estate developer.

It is understood that any line of pipes constructed under the Private Street Works Act, 1892, which comes within the definition of "sewer" in s. 343 of the Public Health Act, 1936, will vest in the local authority upon the road being taken over by notice under s. 19 of the Private Street Works Act, 1892.

The position in this particular instance is that the line of pipes will be public, private through gardens, public in road, private in field before connecting to the main public sewers of the towns.

Is it necessary for a notice to be served under s. 17 of the Public Health Act, 1936, to declare the above private sewers to be public sewers or as they are necessary links between public sewers are they deemed to be public sewers?

If s. 17 notice is necessary and this is resisted by the estate developer successfully, in what way will this affect the connexions to the public sewers on the estate by persons developing on land adjoining thereto after the roads and sewers in them have been taken over by the council?

A plan is attached showing existing main public sewers coloured black; estate sewers coloured red. A—B in road to be taken over under Private Street Works Act; B—C in gardens; C—D in road to be taken over under Public Street Works Act; D—E in field belonging to estate developer; G—D in road taken over.

P. SNAVE.

Answer.

The sewer for the purposes of the Private Street Works Act, 1892, is the sewer for the street and frontagers cannot be charged for any sewer beyond the street. A vesting declaration in respect of the sewer in private ground and not constructed directly in respect of the sewering of a private street will therefore be required.

If part of the sewer remains private, persons developing the land will be able to connect with the public sewer as of right and with the private sewer with the consent of the owner of the sewer.

6.—Road Traffic Acts—*Land tractor drawing agricultural trailer on a road—Need for mirror on trailer or for an attendant on trailer.*

Recently in this area an incident occurred, the details of which are as follows:—

A police constable saw a "land tractor" drawing an "agricultural trailer." The latter was laden with kale (greenfood for cattle). The constable reported the driver of the tractor for not having a driving mirror or as an alternative for not having a person on the trailer in a position which afforded an uninterrupted view of the rear by such person and with a means of communicating to the driver, etc., etc. (The driver was the only person present with the tractor and trailer.) There is no doubt about the vehicles concerned being a "land tractor" and an "agricultural trailer."

The constable reported the driver under r. 16 (*d*) of the Motor Vehicles (Construction and Use) Regulations, 1955.

The constable's senior officer considers there are cases to answer under this regulation by both driver and owner.

Other police opinions are that there are no offences committed for the following reasons:—

1. Regulation 16 (*c*) of the Motor Vehicles (Construction and Use) Regulations, 1955, exempts land tractors from the necessity of having a mirror.

2. Regulation 16 (*d*), it is considered, refers to vehicles outside those exempted under r. 16 (*a*), (*b*) and (*c*).

3. Regulation 105 (*b*) of the Motor Vehicles (Construction and Use) Regulations, 1955, exempts an "agricultural trailer" drawn by a "land tractor" from the requirements of s. 17 of the Road Traffic Act, 1930, relating to attendants on trailers.

4. That because of the conditions under which "land tractors" and "agricultural trailers" are used it seems to be sound legislation that a mirror should not be required on the tractor or an attendant on the trailer under any circumstances.

I should be grateful for your valued opinion, please.

KEVER.

Answer.

We think, for the reasons given in 1, 2 and 3 in the question that no offence has been committed.

7.—Water Service Pipes—*Compensation or wayleave.*

An estate agent acting on behalf of a landowner has asked if compensation or wayleave can be paid for a water service connexion which is laid through his land, after statutory notice was given, to a private dwelling-house which lies beyond. The point which was made was that if at some future date the landowner wishes to construct a silage pit he might damage the council's main, not knowing its location and not being reminded by annual receipt of wayleave income of its existence. This might apply, of course, to a successor. There would be some need to exercise caution if such a payment were made so it is maintained. What is the council's position?

PICON.

Answer.

The council is liable to pay compensation under s. 278 of the Public Health Act, 1936, and is not liable to purchase a wayleave.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*).

LANCASHIRE No. 6 COMBINED PROBATION AREA COMMITTEE

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for the above appointment serving the county borough of Rochdale and the borough of Heywood.

The appointment and salary will be in accordance with the Probation Rules, 1949 to 1955. Candidates must be not less than 23 years nor more than 40 years of age, except in the case of a serving officer.

The post is superannuable and the selected candidate will be required to pass a medical examination.

Applications, stating age, present employment, qualifications and experience, together with copies of two recent testimonials, must reach the undersigned not later than May 25, 1957.

J. FREER,
Secretary of the Committee.

Magistrates' Clerk's Office,
The Butts,
Rochdale.

COUNTY OF WARWICK

Rugby Petty Sessional Division

Appointment of Temporary Part-time Clerk to the Justices

APPLICATIONS are invited from Barristers or Solicitors qualified under s. 20 (1) of the Justices of the Peace Act, 1949, for the part-time appointment of Clerk to the Justices of the Rugby Petty Sessional Division, which has an estimated population of 63,000.

The personal salary will be £1,005 per annum, rising by four annual increments of £60 to a maximum of £1,245 per annum and the appointment, which is a superannuable one, but in a temporary capacity, will be subject to the Conditions of Service of the Joint Negotiating Committee for Justices' Clerks. It will be terminable by three months' notice on either side. The successful candidate will be required to pass a medical examination.

Applications, on forms to be obtained from the undersigned, must be received not later than May 31, 1957.

L. EDGAR STEPHENS,
Clerk of the Committee.

Shire Hall,
Warwick.
May 6, 1957.

NORTH RIDING OF YORKSHIRE COUNTY COUNCIL

Assistant Solicitor

APPLICATIONS invited for this post on National Joint Council. Conditions of Service: salary within Special Grade (£743 2*s.* 6*d.*—£994 5*s.*). Previous local government service an advantage but not essential.

Applications, stating age, qualifications and experience, together with the names and addresses of three referees, should reach me by May 25, 1957.

H. G. THORNLEY,
Clerk of the County Council.

County Hall,
Northallerton.
May 3, 1957.

WEST RIDING AREA PROBATION COMMITTEE

Appointment of Male Probation Officers

APPLICATIONS are invited for the appointment of two whole-time Male Probation Officers, one to be centred at Barnsley and assigned to the County Borough of Barnsley and the Petty Sessional Division of Staincross, and the other to be centred at Rotherham and assigned to the County Borough of Rotherham and the Petty Sessional Divisions of Hallamshire and Strafforth and Tickhill Upper.

Applicants must be not less than 23 nor more than 40 years of age except in the case of whole-time serving officers and persons who have satisfactorily completed a course of training approved by the Secretary of State.

The appointments will be subject to the Probation Rules, 1949–1956, and will be superannuable, and the successful candidates will be required to pass a medical examination.

Application forms may be obtained from the Principal Probation Officer, 91, Northgate, Wakefield.

Applications, together with two recent testimonials, should be enclosed in a sealed envelope marked "Appointment of Probation Officer," and must reach the undersigned not later than June 8, 1957.

BERNARD KENYON,
Clerk to the
Area Probation Committee.

Office of the Clerk of the Peace,
County Hall,
Wakefield.

LANCASHIRE MAGISTRATES' COURTS COMMITTEE

Appointment of Justices' Clerk

APPLICATIONS are invited from Barristers or Solicitors duly qualified under the Justices of the Peace Act, 1949, for the whole-time appointment of Clerk to the Justices of the Prescot and St. Helens Petty Sessional Divisions. The Courts sit at Prescot and at St. Helens respectively, and the Clerk's Office is at Prescot. The estimated population of the two Divisions is 112,637. The appointment will be subject to the Conditions of Service of the Joint Negotiating Committee for Justices' Clerks, and the salary will be within the range of £1,900 x £55—£2,175 per annum, with an additional £100 per annum for more than one Division. The appointment will be superannuable and subject to medical examination, and will be terminable by three months' notice on either side.

Applications, giving full particulars of qualifications and experience, together with the names of two referees, should be received by me not later than June 3, 1957.

R. ADCOCK,
Clerk of the Committee.

County Hall,
Preston.

BOROUGH OF SOUTHALL

Appointment of Assistant Solicitor

APPLICATIONS are invited for this appointment at a salary in accordance with Grade A.P.T. VI of the National Scheme (£902 per annum to £1,107 per annum), plus London Weighting.

Applicants should have good general legal experience, preferably in the Local Government Service, and experience in Town Planning legislation and attendance at Committees will be an advantage.

The appointment will be subject to the provisions of the Local Government Superannuation Acts, 1937–53, and to the National Scheme of Conditions of Service.

Applications, stating age, qualifications and experience, together with the names and addresses of two persons to whom reference may be made, must be received by me not later than May 29, 1957.

J. S. SYRETT,
Town Clerk.

Town Clerk's Offices,
7–9, South Road,
Southall,
Middlesex.

COUNTY BOROUGH OF ST. HELENS

Deputy Town Clerk

APPLICATIONS are invited for the above appointment which will become vacant in September. Salary Scale "F" (£1,625—£1,900). The conditions of service are in accordance with the recommendations of the Joint Negotiating Committee for Chief Officers. The appointment is terminable on three months' notice.

Applications, together with the names of two referees, must reach me by June 4, 1957.

Canvassing will disqualify and relationship to any member or senior officer of the Council must be disclosed.

T. TAYLOR,
Town Clerk.

Town Hall,
St. Helens.

DERBYSHIRE MAGISTRATES' COURTS COMMITTEE

Appointment of Justices' Clerk

APPLICATIONS are invited from persons qualified in accordance with the Justices of the Peace Act, 1949, for the appointment of whole-time Clerk to the Justices for the Chesterfield County and the Eckington Petty Sessional Divisions, with a total estimated population of 143,250. Office accommodation and staff will be provided.

The personal salary will be £1,945, rising by annual increments of £55 to £2,220 per annum.

Superannuable post; medical examination required.

Forms of application from the undersigned, returnable by June 10, 1957.

D. G. GILMAN,
Clerk of the Committee.

County Offices,
Derby.
May 13, 1957.